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ABSTRACT

Papers presented at a 1984 lecture series and symposium on the impact of the 1954 Brown v. Board of Education of Topeka Supreme Court decision case are collected in this report. The papers (and their authors) are: (1) "Legal Aspects of the Brown Decision" (Robert L. Carter); (2) "Desegregation/Integration and the Media: Fallout from the Brown Decision" (Dexter D. Eure, Sr.); (3) "Civil Rights Law and the Brown Decision" (Jack Greenberg); (4) "Desegregation/Integration and the Media: Fallout from the Brown Decision in West Virginia" (W.E. Chilton, III); (5) "The Roots of Separate and Unequal: The Virginia and West Virginia Heritage--17th to 20th Century" (A. Leon Higginbotham); (6) "Educational Trends and U.S. Commitments Since the Brown Decision" (Kenneth Clark); (7) "The Impact of the Brown Decision on Higher Education" (G. Gordon Gee); (8) "Wisdom and Courage Can Often Prevent Horrible Consequences" (Lawrence D. Reddick); (9) "The Impact of Brown v. the Board of Education of Topeka, Kansas on West Virginia State College" (William J. Wallace); (10) "Education in the Post-Brown Era" (James S. Coleman); (11) "Before and After Brown: Education Context of Change" (Eleanor Smith); (12) "The Brown Decision and the Civil Rights Movement: An Historical Perspective" (Charles V. Willie); (13) "From Here--Where?" (James Kelly, Jr.,). Appended are (1) a list of acknowledgements; (2) a list of program moderators; (3) a copy of the agenda for the 7-session lecture series and symposium; and (4) a set of biographical sketches of the speakers. (KH)

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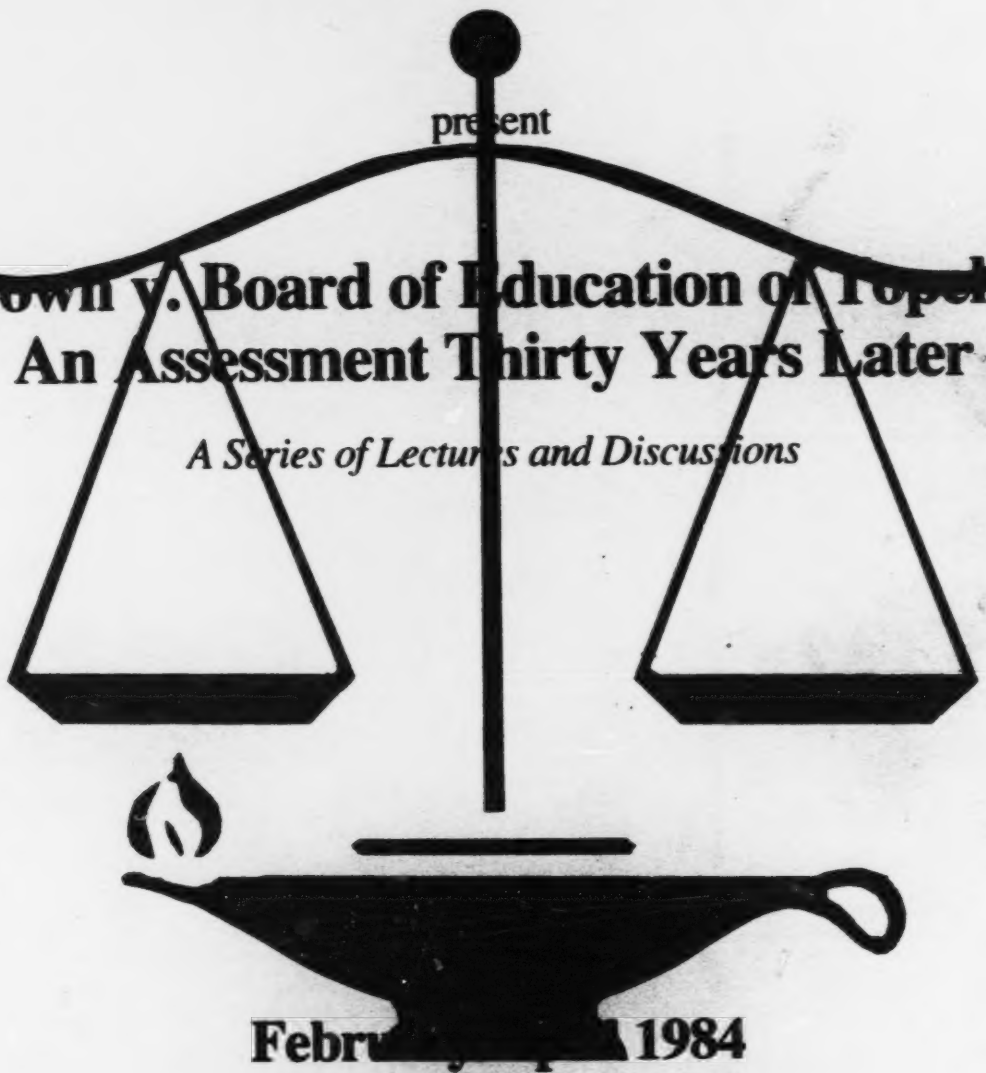
Brown v. Board of Education of Topeka: An Assessment Thirty Years Later

A Series of Lectures and Discussions



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West Virginia State College
Institute, West Virginia

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INTRODUCTION

West Virginia State College completed a series of lectures and discussions in April, 1984 on the impact of the Brown v. Board of Education Supreme Court Decision of 1954. This project was funded by The Humanities Foundation of West Virginia, The Greater Kanawha Valley Foundation, West Virginia State College and The Mountain State Bar Association.

This decision, by the Supreme Court, is considered by many persons to be one of the greatest documents since the Magna Carta. It has affected the lives of all Americans and has changed the fiber of this nation.

In celebrating the 30th anniversary of the decision, West Virginia State College and the Mountain State Bar Association took the leadership, in this state, by commemorating this significant event. Lectures, discussions and a symposium were presented by outstanding lecturers from throughout the United States. Thirteen speakers spoke at the seven sessions which were held February 10-11 and April 11-13, 1984.

Among the participants, there were judges, lawyers, educators, sociologists, historians, journalists, a psychologist and a philosopher. The Brown Decision was examined in depth. The historical background of segregation in the United States was presented. Moral issues and the sociological and psychological implications of segregation were examined. The impact of the decision on the American way of life was explored. A sizable segment of our society is unaware of the ill effects of segregation, and how the dignity and worth of each individual in our society has improved as a result of this momentous decision.

LEGAL ASPECTS OF THE BROWN DECISION

THE HONORABLE ROBERT L. CARTER
JUDGE, U. S. DISTRICT COURT, NEW YORK

Today, you begin ceremonies and programs commemorating the 30th anniversary of the Supreme Court's historic decision in Brown v. Board of Education outlawing segregation in the nation's public schools. I am asked, as one of the participants in that 30 year old event, to discuss some of its background legal aspects. My initial reaction was that the topic is rather broad and of relative little general interest except to those fascinated by the law and constitutional theory. Yet, since many of you in attendance at this institution were not even a part of the universe when Brown was decided and might have some misconceptions concerning the constitutional imperatives that inexorably led to Brown, perhaps a statement outlining the basic thrust of the case law and legal theory that culminated Brown might be a useful exercise, particularly on this occasion.

Brown concerned a form of racial discrimination that has virtually vanished from American life--that is racial segregation enforced by state or, in the case of the District of Columbia, federal law. Racial segregation is still much a part of the American scene but it can no longer have the support of the law.

There has never been any dispute that the 14th Amendment was enacted to ensure equal treatment for Blacks. However, early on the United States Supreme Court legitimated racial segregation by announcing a "separate but equal" doctrine in 1896 in a case called Plessy v. Ferguson. Under that doctrine racial segregation was spawned and became firmly entrenched in the South and in a few states outside the South. Because it was founded on law, protests against segregation were unavailing. When one became restless under the pressure of segregation, well meaning whites would advise that after all it is the law. Those who protested

were soothed with homilies about religion and moral precepts effectuating a change in time--100-200 years or else were roughed up or thrown in jail.

Racial segregation is demeaning enough in itself, but there was no pretense anywhere that the states practicing it were providing equal facilities for the segregated group. At the time, some 17 states and the District of Columbia mandated segregated public schools. Typical examples of the disparity can be gleaned from these 1949-50 school year per pupil expenditures: Alabama, $130.09 for whites and $92.69 for Blacks; Georgia, $145.15 for whites and $79.73 for Blacks; Mississippi, $122.93 for whites and $32.55 for Blacks and South Carolina, $154.62 for whites and $79.82 for Blacks. I could go on, but you get the point. Where segregation extended to the college level, separate Black colleges were maintained but no provision was made for the professional or graduate education of Blacks. This institution was one of those land grant colleges originally founded solely for Black students, thereby leaving the University of West Virginia solely for white students.

Up into the 1930's the 14th Amendment had meant very little to Blacks. Its due process clause had become a prime protector of corporate growth and privilege pursuant to the Supreme Court's substantive due process decisions. Its equal protection clause, designed to guarantee equal treatment for Blacks, had been emasculated by the separate but equal doctrine and Supreme Court indifference. In 1930, NAACP lawyers, then headed by Charles Houston, decided to undertake a campaign of test case litigation to render the 14th Amendment the guarantee they felt the framers meant it to be--the constitutional guarantee of equality for Blacks--in effect a Black Magna Carta. It was decided to start this campaign by bringing cases in states making no provision for the graduate or professional training of its Black citizens. The objective was to secure decisions holding that the segregating states were required by the Constitution to provide graduate

and professional education for Blacks if such facilities were available for whites. The target was to secure a determination by the Supreme Court to this effect. The Supreme Court was clearly not a sure bet--indeed in the argument of the first of these cases to reach the Court--the Gaines case, which I will tell you about in a moment, when Charles Houston rose to present Gaines' argument, Justice McReynolds swiveled his chair so that his back was to Mr. Houston throughout his argument. The hidden agenda was an indirect attack on segregation, the object being to make it so expensive for the states to establish separate graduate and professional schools for Blacks in law, medicine, journalism, and in all the higher disciplines leading to Masters and Ph.D. degrees that segregation would collapse without a direct assault being necessary.

As I have said, the first of these cases, Missouri ex rel. Gaines v. Canada, reached the United States Supreme Court in 1938. Gaines sought admission to the University of Missouri Law School. Missouri provided no facility for Blacks to learn law. Gaines was refused because of race. The Supreme Court ruled in effect that state imposed racial segregation could pass constitutional muster only if equal facilities were in fact available for Blacks. Gaines was not ordered admitted to the law school, but the constitutional principle had been established.

Gaines disappeared, nobody ever knew what became of him and World War II intervened. By that time a new group of lawyers was on the NAACP legal staff. Thurgood Marshall had become chief counsel, Constance Motley had joined the staff, and I had come on as well as several others. We were impatient with the Houston indirect assault and wanted to mount an all out attack on segregation per se. We were not given the green light to forego the equalization argument solely in favor of a contention that segregation was constitutionally invalid in and of itself. But we were allowed to utilize the argument as a part of an equalization argument as well, and therefore to hone that argument for, as it turned out, later use.

By this time we had secured the support of deans of prestigious law schools (like Harvard), outstanding legal scholars and educators to testify as experts that equal education in graduate schools and in law schools could not be provided under circumstances where Blacks are set apart from whites.

The next case to reach the Supreme Court concerned Ada Lois Sipuel's attempt to secure admission to the University of Oklahoma Law School. That was now 1948. The Court decided that Oklahoma had to provide Blacks with the same facilities offered whites. It took the Court only four days to hand down the decision, a restatement of Gaines, but again her admission was not ordered.

In 1950 two seminal decisions were handed down. In Sweatt v. Painter, Sweatt was refused admission to the University of Texas Law School. The state offered to admit him to a Black law school which it had opened in Houston. The Supreme Court held that in evaluating the two schools in respect of measurable standards--library, faculty, curriculum, prestige of the alumni, the Black school was not equal to the University of Texas. More important it said, that based on the intangibles, the University of Texas had, to a far greater degree, those qualities that are incapable of objective measurement but which make for greatness in a law school. And the Supreme Court for the first time ordered a Black admitted to a white institution. Sweatt was ordered admitted to the University of Texas. McLaurin v. Oklahoma Regents was, perhaps, even more significant--McLaurin was a graduate student at the University of Oklahoma. He was allowed to attend the University and he had the same teachers and access to the same facilities and curriculum as white students. However, McLaurin was given a special seat in in the classroom and a special table in the library and a special table in the dining room. The Court held that these restrictions handicapped McLaurin in his ability to pursue graduate education effectively, impaired his ability to exchange views with his fellow students, or to engage in discussions and learn his profession.

These restrictions were ordered removed. Both in Sweatt and McLaurin we asked the Supreme Court to overrule Plessy v. Ferguson but it refused to do so.

At this point we concluded, nonetheless, that Plessy v. Ferguson was in constitutional limbo, if not dead, and we decided to bite the bullet and make an all out attack on segregation at the public school level. The NAACP announced in 1950 that it was backing litigation attacking segregation per se and would no longer back law suits that sought merely to improve segregated schools. The decision created some problems. Some of our close colleagues felt we were acting hastily and were endangering the campaign that had led to Sweatt and McLaurin. Fortunately most of those defections were temporary and most of our dissenting colleagues were back with us within a year. Our biggest problem, however, was to find the appropriate mechanism to convince the courts that grade school segregation was per se pernicious. At the grade school level one cannot point to a markedly superior faculty at the white school, distinguished alumni, or individual isolation as sure indicators that racial segregation per se is disparate education. We could demonstrate wide disparities in physical facilities, per pupil expenditure and limited curriculum, etc. but this might only mean a decision requiring upgrading of the black schools, and we had abandoned that approach in any event. We realized that we had to convince the Court that racial segregation itself had an adverse effect on a Black child's ability to learn. We, therefore, turned for help to our only possible resource--the social scientist.

Professor Otto Klineberg, then at Columbia, had done a study on the achievement scores of Blacks who had come from the South and settled in Philadelphia. This study correlated improvement in these Blacks' test scores to the length of their stay in Philadelphia. I believe the study covered a five year span. I came across the Klineberg study and felt that if the study could be interpreted to mean the low achievement first exhibited could be traced back to the segregated school, it supplied the proof we needed.

We were then preparing for trial in one of the six cases of the Clarendon County case, Briggs v. Elliott, in South Carolina. I met with Dr. Klineberg. He declined to be an expert witness himself but referred me to Dr. Kenneth Clark. Klineberg subsequently did testify for us. Dr. Clark and his wife, Mamie, both psychologists, had devised a doll test the results of which they felt demonstrated that the impact of racial discrimination was perceived at a very early age by Black children. Briefly, the test is administered something like this: the tester would show a Black doll and a white doll to a Black child and inquire which doll do you like most? which is prettier? which one is most like you? which one would you most like to be?, etc., always asking the child to compare and choose one or the other doll. Usually the white doll was deemed prettier, was liked more, and was selected and preferred. I told Dr. Clark that we needed evidence that segregation had a deleterious effect on the Black child's ability to learn. There were a number of social science studies to show the adverse impact of discrimination on Blacks, but few, if any, studies had isolated segregation and measured its pinch. However, fortunately for us, most American psychologists and psychiatrists were of the view that enforced racial segregation was another form of racial discrimination and were willing to attest to that, that it had a deleterious impact. Through Dr. Clark we were able to line up top psychologists, psychiatrists and sociologists as expert witnesses to testify that school desegregation was harmful. We used them as expert witnesses in the five cases that eventually reached the Supreme Court. When our briefs were filed in the United States Supreme Court, it was accompanied by a statement signed by the leading social scientists in the country that segregated education was harmful to the Black child's ability to learn.

The first cases to be tried were Brown, the case from Kansas and Briggs v. Elliot from South Carolina. Both cases were lost, at the trial level, but the

Court in the Kansas case said it was persuaded that segregation impaired a child's ability to learn and but for Plessy v. Ferguson, it would have ruled in our favor. That was a tactical victory for our side, we believed, and we felt it had put pressure on the Court. In light of Sweatt and McLaurin, we thought the Court would have difficulty repudiating the views of the Kansas District Court.

The Kansas case (Brown) and the South Carolina case (Briggs v. Elliot) were first argued in the Supreme Court in 1952. At the end of the term in June, 1953--the Court restored Brown and Briggs to the docket and ordered the two cases reargued the following October along with a case from Virginia and a case from the District of Columbia. Subsequently two cases from Delaware were added as well. The six were subsequently argued together--five involving the 14th Amendment and Bolling v. Sharpe, the case from the District of Columbia, involving the 5th Amendment! The Court, in restoring the cases to the docket, asked the parties to address themselves to enlightening the Court concerning the contemporaneous understanding and contemplation of Congress, that authored the amendment and state legislatures that adopted it in respect of the 14th Amendment's impact on segregation in public schools, the understanding of the framers of the Amendment on the power of future legislations or the courts to abolish segregation and the kind of decree the Court was empowered to render--one that would dismantle segregation at once or one calling for its gradual elimination.

That was a hectic but altogether exhilarating summer. We secured the assistance of some of the nation's top historians, educators, political and social scientists and lawyers to help in the research of scholars in the various disciplines to write position papers on various phases of the history of the adoption of the 14th Amendment and its meaning as perceived at the time. During that summer we held a five day conference in New York attended by about 200 scholars. The conference was broken down into the various disciplines. Position papers were presented to each discipline. The papers were critiqued by those

assembled and out of the discussion emerged a consensus which became the approach used in the brief.

As I recall, my role in all this was to interest some of the scholars we wanted to involve in our project, to organize and to make arrangements for the conference. I believe that everyone felt that history was being made, and virtually everyone asked to participate agreed. The conference took place in August, and then came the final push to get the brief we had to submit in final form. My principal role was to write that part of our brief dealing with constitutional legal theory. That became Part I of the brief we filed, and I don't think I got much beyond Part I. The remainder of the brief was devoted to responding to the Court's questions about the history of the 14th Amendment. The brief was filed in due course but argument was postponed from October to December. Chief Justice Vinson had died and Earl Warren had become Chief Justice. The arguments went on for several days and we returned in 1955 for argument concerning the type of relief to be ordered.

My assignment was to argue Brown, the Kansas case in the Supreme Court. Since it was first on the docket, that meant I started the argument and my job was to make a technical legal argument to the effect that the separate but equal doctrine had been decided in a case involving railroad accommodations and had never been examined in respect of its impact on education. It had been assumed by the Court since 1896 that precedent required the Court to apply the doctrine to education but no such precedent existed. The Court adopted this technical legal argument and found the historical evidence inconclusive. It came down on May 17, 1954 with its decision which we commemorate today that racial segregation in the public schools was adverse to the educational guarantees of Black children and hence unconstitutional. In May, 1955, it announced its desegregation with all deliberate speed decree.

We regarded ourselves at the time as social engineers, using the law to effectuate change in American life. We believed that outlawing racial segregation would mandate equality for Blacks. As I look back on that period, I recall how confident we all were that if we succeeded, Blacks would inherit equal opportunity. What naivete, but we were naive because we held such a firm trust in our system--in our laws, in our constitution. During the period when segregation had been given respectability under law, our railings against it were met with a response that it is the law. Surely, it seemed to us then that once segregation became unlawful white authorities would adhere to that command of the law as zealously as they had enforced legal regulations to the contrary. Now, my judgment is we had more confidence in the system than it deserved or perhaps it would be more just to say that we placed more faith in the system than we had a right to.

Unhappily, if Brown is to be measured as to its effect on segregation in education, it must be judged a dismal failure. There are more segregated schools today than there were in 1954. If it is measured as to its impact on Blacks' status in the society, it must be deemed ineffectual. Blacks today remain as subjugated and subordinated to whites as was true before Brown. Considerable gains, specialized gains, have been made but the economic gap between Blacks and whites remains wide and measured in terms of income, poverty and unemployment wide economic disparities between Blacks and whites have not lessened appreciably since Brown was decided and may have widened.

The differences between Black and white family income has remained relatively constant since 1954. Median income for Black families as a percentage of median income for white families was 55% in 1960 and, after rising to 61.5% in 1975, fell again to 56% in 1981. Black family income as a proportion of white family income fell for married couple families in which the wife did not work and in

female headed families. Black married couples in which the wife worked, however, did record slight gains in their income compared to white families.

Both Black and white family incomes have shifted upward but, Black family incomes did so at a slower pace, so that most Blacks today remain clustered at the lower end of the income scale. In 1981, for example, 55% of all Black families had incomes under $15,000 compared to only 28% of all white families.

Educational differences between Blacks and whites does not explain these income disparities. The median years of school completed rose from 7.7 and 8.6 for Black males and females respectively in 1960 to 12.1 for both in 1981. The comparable figures for white males and females in 1981 were 12.6 and 12.5--only one-half year more than Blacks. The gap in the illiteracy rates for Blacks and whites has also almost closed.

Despite this educational progress, however, Blacks find a different system of financial rewards based on education than whites. For example, in families headed by high school graduates, 48% of Blacks and 26% of whites had 1980 incomes under $15,000. In families where the head completed four years of college, 9% of Blacks and 21% of whites earned $50,000 or more. The income distribution of Black families whose heads have completed four years of college parallels the income distribution for white families headed by high school graduates.

Wide disparities exist in the labor force participation and unemployment rates of Blacks and whites, with Blacks at a severe disadvantage. The unemployment rate for Blacks since 1960 has been uniformly twice or more the unemployment rate for whites.

The percent of Blacks in the labor force has also dropped over time, and the number of males not participating in the labor force is rising faster for Blacks than for whites. In 1960, 74% of the Black male population age 16 and

over had jobs; this ratio has since fallen steadily to 55% in 1982. Moreover, the types of jobs held by Blacks differ from those held by whites. Blacks are overrepresented in the service, unskilled-labor and other lower-wage occupational categories. At the same time, Blacks are underrepresented in professional, administrative and other white-collar and skilled blue-collar jobs.

The social consequences of these economic disparities for Blacks are not surprising. Blacks have higher infant and maternal mortality rates, shorter life spans, and a greater incidence of teenage pregnancy. Blacks are overrepresented in jails and prisons, and are more likely to be victims of crime. Black men are over six times as likely as white men to be victims of homicide. Roughly 55% of Black children under 18 years of age are reared in poverty.

Brown has succeeded only in outlawing formalized public discrimination. That has been accomplished in all aspects of American life. That is a small plus.

The failure of Brown to have the impact we hoped for is because the extent and depth of racism in the country is only dimly perceived by whites and often by Blacks as well. Let me give an example which I found startling. You all have probably heard of the study made some years ago by a Harvard professor, then at the University of California. (There was a dispute at the time as to who should claim credit for the study.) In any event, he told a group of teachers that certain of their students were bright and others not so bright. This was an arbitrary designation. The teachers reacted to his designation and treated the children designated bright as gifted, giving them their full attention and wasted little time with those designated not so bright--indeed dismissed them as dullards. Some years later two professors tried this same experiment in multi-racial classrooms in Illinois. They told the teachers--who were white--that some white children were gifted and some Black children were gifted and some in both groups were slow learners. The results will probably surprise you. Both

groups of white children received better treatment and more attention than either Black group. But the gifted Black children were treated worst--criticized constantly and dealt with more harshly than the others. One more depressing fact, to me, is that the white teachers involved reacted uniformly and some were young. This left me to believe that the future is not so bright either.

The basic insights this study affords as to the real nature of the race problem in this country was not perceived in 1954 and in many places and unfortunately is not even perceived today. We felt in 1954 that racial segregation was the basic evil and Brown was so welcome because it seemed to have rid us of this problem in one easy stroke. However, what makes the race problem so intractable is that the evil that must be conquered before the racial problems that plague us are resolved is white supremacy. Brown is important because it made the real problem more visible than it had ever been.

This country has taken white supremacy so much for granted that many of you may not understand the stress I place on it. After all, the country is predominantly white and nothing is wrong with white supremacy, you may say, as long as non-white minorities are accorded their rights. That's true, however, non-white minorities will not be fully granted their rights unless white supremacy is dealt with. No dominant group in history has ever been know to relinquish its perogatives of power and privilege voluntarily. Moreover, the problem becomes magnified almost beyond solution because, as Louis Harris states in a book called Anguish of Change, Blacks and whites do not like each other as groups. And, this antipathy, between Blacks and whites has grown, or to put it more accurately, is more visible today than it was when Brown was decided.

Brown has contributed to this visibility, if not the intensification, of this group disinfatuation. The sedateness and ritualistic protocol which used to mark racial encounters has been replaced with cacophony, rudeness and open disdain.

Fear and unease on the part of whites has always been there but masked by fantasy and a refusal to face the truth. Blacks have always been resentful. Scratch a Black skin and you will uncover anti-white feelings and the deeper you probe, the more you expose the vehemence of these sentiments. Before Brown these feelings were masked and kept under control. Black inferiority is a fact of life in America and before Brown was accepted as a theoretical truth by both groups.

Brown altered the psychological pattern of race relations. By mandating equality for Blacks as constitutionally guaranteed at least in all the public reaches of public life, Brown revolutionized race relations in this country. Heretofore, being Black had been a mark of oppression--a curse. After Brown, being a Negro went out of fashion. Negroes became Black. Since they were equal under law to whites, they could accept their Blackness, their physical differences from whites, without hurt or shame; Black became beautiful. Blacks were able to free themselves of the heavy burden. They could feel better about themselves.

Blacks have now gained confidence that they can control their own destiny. They have little faith in white institutions or that any white controlled instrumentality will fully support their continuing drive for equal rights. I do not know how this will all end. Over the last two decades, Blacks have sought to gain leverage in the political arena and that drive has been intensified in the last few years. I have no assurance that all will end well. What I can say in closing is that Brown has helped show us what the real problem is. Only by facing up to that problem and seeking to solve it can we have any serious expectation that ours will some day evolve into a democratic classless society, free of racial strife.

DESEGREGATION/INTEGRATION AND THE MEDIA:
FALLOUT FROM THE BROWN DECISION

Dexter D. Eure, Sr.
Director, Community Relations and
Assistant Promotion Manager, The Boston Globe

It is good to be back in West Virginia. I can recall my initial visit to this great state. That was in September of 1942 when I arrived as a freshman at this land grant institution, which at the time was strictly for Negro students.

Returning here today, I see that the complexion has changed considerably. I still remember my first train ride here from Philadelphia and how I got off the Pennsy in Washington to change to the segregated car section of the Chesapeake and Ohio before continuing on to Charleston.

My arrival at the Charleston Railroad Station occasioned an unusual reunion for me with a fellow freshman who, along with a large delegation of east coast students, arrived about the same time. You can imagine the confusion--there we were all hustling to get our trunks and arrange for them to be sent to Institute. Finally, I got a cab with five other students. One of them turned out to be Harold Benton, who, as he looked around at the hundreds of whooping and hollering Black students, complained that he obviously was going to the wrong campus. You see, Harold, with his blue eyes and other delicate features, could have passed for white. And wouldn't you know? Upon meeting and introducing ourselves in the cab, we discovered that we were in the same second grade in a North Philly elementary school, and had lived across the street from each other.

And, by the way, West Virginia State College WAS integrated back in 1942. In fact, you might say it was color-blind as well. The single white student amongst the 2000 member student body happened to be blind as well as white.

First, I'd like to say that I am flattered at being given such a great opportunity to participate in so significant a lecture series and to be asked to discuss

and expound on the historical anniversary topic:

Brown v. The Board of Education, Topeka:

"An Assessment 30 Years Later"

In the past three decades, the measurement of social change has taken in a lot of events. Contrary to my jokes about my mischievous and illustrious stay on this campus, the late president-emeritus, John W. Davis--who was most anxious to see me leave--nevertheless was highly revered and respected by me for his inspiring leadership. He certainly was one of America's foremost educators. And, due in large part to his character, the hundreds of students that passed through this institution, mostly all Blacks at the time, left here cultivated and equipped to deal with any of society's challenges.

On John W.'s campus, back in the olden days, it was mandatory to attend chapel three times a week. Miss three times, and you could be in some serious trouble. Now, I didn't miss too many, simply because I happened to have been assigned alphabetically to sit between two foxes. Hardly a week passed when prexy didn't have some nationally distinguished speaker here. Many of the various departments also brought prominent personalities here to Kanawha County. Today, it is most gratifying to see that President Thomas Cole is continuing this tradition of progress that focuses on society and its challenging international needs.

Now, I'm still puzzled as to why Dr. Cole included me in this particular series. All the other lecturers are top drawer folks--distinguished psychologists, sociologists, legal scholars and educators. I'm certainly not in their league. I know it's President Cole's attempt at staging a balanced program (smile)--and we are advocating equality (smile). So, you're stuck with me.

Whatever the questionable judgment in inviting me, I can offer this: I have been working for newspapers almost exclusively since leaving here in 1946. And just so the record will be complete, I even served as a sportswriter for WVSC during

my junior and senior years. For the past 20 years, I've been associated with one of America's top newspapers, The Boston Globe. With that background, I'll concentrate on and address my comments to the role that newspapering has played since the Brown Decision was handed down.

I recently ran across a report by Kenneth B. Clark and John Hope Franklin entitled, "A Policy Framework for Racial Justice." In the foreward the authors said that even in the early 1940's, W. E. B. DuBois was saying that the most difficult stage in the struggle for racial justice in America would be when it became clear that fundamental inequities persisted in spite of litigation, legislation and direct confrontation. The success or failure of the civil rights struggle, he said, would ultimately be determined by the ability of highly trained groups of Black scholars to use their disciplined intelligence as effective weapons in the battle for social justice.

Although John W. Davis, believing that I was involved with an underground newspaper, wanted to kick me out of school and had state troopers searching my dormitory room a week before graduation, I never failed to maintain the greatest respect for him. This attitude brought about our mutual admiration for each other because John W. and W. E. B. DuBois were on the same wavelength for championing social justice.

W. E. B. DuBois' prescience may be seen in the light of the profound inequities that persist despite the progress generated by the Brown Decision in 1954; despite the civil rights laws of 1964 and 1965; despite the non-violent civil disobedience movement directed by Dr. Martin Luther King, Jr; and despite the sporadic urban riots of the late 1960's. We are indeed at the most difficult stage in the quest for racial justice.

When the United States Supreme Court handed down its now historic decision in Brown v. Board of Education of Topeka, Kansas, newspapers across the nation ran

banner headlines. Many ran editorials predicting that America, because of her history and character, would use this decision as a springboard for eradicating de jure segregation and discrimination. Banning segregation in the public schools of the South, including West Virginia, the District of Columbia and 16 other states, was acclaimed as "momentous" and a "milestone" in American history.

Television was still in its media infancy at the time. But newspapers--both large and small--along with national magazines, reported this important event without acknowledging that they, too, had a role to play as the decision impacted their industry as well.

Newspapers pride themselves on being seen as the "honest broker" in dealings between the public and government. They revel in being labelled "The Fourth Estate." These points are illustrated by the mighty and powerful New York Times with its proud slogan, "All the news that's fit to print," and your own local Charleston Daily Mail's slogan, "Without or With, Offense to Friends or Foes, I Sketch Your World Exactly as it Goes." The printed press shapes society's attitudes, then and now, much more so than does the nightly national news on television.

Immediately after the Brown Decision, legal experts were quoted in news stories as saying they believed it would be years before the Supreme Court followed through and forced states to comply with its decision outlawing segregation in the nation's public schools. What a prophecy! In the 1970's and 1980's, large urban cities, in the North, Chicago, Detroit, Boston and out west, Los Angeles, showed their true color with massive resistance campaigns when their turn came to integrate.

Now you may well ask what the relationship is between the press and all this fuss about the Brown Decision. This major civil rights breakthrough was not only significant for schools in the South, but a reflection on the whole agenda of institutional racism that was national in scope, including government, religion, business, sports and the so-called "Fourth Estate."

A lot of American citizens still regard the press as the watchdog that keeps government officials from committing too much overt hanky-panky. As a result, the press is subject to a lot of attacks from business, government, community activists and others, concerning standards of accuracy, integiity and fair play. For our part, we, the media, are always espousing our First Amendment rights as free press. We also are inclined to preach about accountability, credibility and respectability, often without applying to ourselves the same standards that we demand from those in high places.

The Brown decision, which addressed itself to the question of race, was as applicable to the media as to the nation's public schools. After all, the media industry, governed and ruled almost exclusively by white males who wield awesome amounts of power, has great impact on our lives. Thus, the industry also is a major influence upon institutional racism in America.

William Davis Taylor, former publisher of The Boston Globe and chairman, American Newspaper Publishers' Association, states at the latter organization's annual convention in 1974: "The newspaper business may not have done the best possible job in America, but it has done better than many other institutions that have tried from time to time. Some say we are untouched by the forces around us; that our decisions are sterile and unresponsive."

Davis continued: "From another direction, it is said that we are too involved; that we make news, not report it. More than anything, it's a responsibility to those we try to serve. That responsibility flows directly from the First Amendment and the rights that amendment gives--not to the press, but to the people.

In 1968, the media was called to account when the Kerner Commission made its report to President Lyndon B. Johnson and the nation. The Commission said that through insensitive reporting, the media was the major influence in inflaming race riots. This was sharp criticism of the powerful "Fourth Estate," with all this

special protection under the First Amendment to the U. S. Constitution. The media claims that the free press clause gives it special rights and privileges that are not afforded to other businesses.

And for those of you who may not know, the media industry is, first and foremost, a business. And business is about earning profits. The impact on society and business brings under close scrutiny the media's refusal, despite its power and influence, to be held accountable. And instead of its arrogance about its sometimes arbitrary and capricious practices that result in inaccuracy, carelessness and bias, the media must take to heart complaints from business and the community and make visible, persistent and consistent efforts to be fair. For the media's most precious commodity is its credibility.

You see, the First Amendment which protects freedom of expression from abridgement by any law, also guarantees to the people, through their press, a constitutional right that places on newspaper people a particular responsibility.

The American press was made free not just to inform or just to serve as a forum for debate, but also to bring an independent, close scrutiny to bear on the forces in society that affect the people. This includes the conduct of official power at all levels of government. And although we acknowledge the media's shortcomings, it is still important that we support and understand the importance of the media's First Amendment rights. Without the First Amendment, both the media and all of us in this hall, who today are celebrating a major civil rights victory, are losers with press.

A syndicated Black columnist, Carl T. Rowan, recently replied to the question, "Who elected the press to a watchdog role? Those nation-founders who were fleeing tyranny and religious persecution, so unwanting of another king that they sought ways to prevent imperiousness and dangerous accretions of power among those elected to do a new nation's business," he wrote.

He added, "It was not theory, but experience, that told our forefathers that while power corrupts, absolute power corrupts absolutely. So they went to great lengths to ensure that this new society, America, would have checks and balances of the legislature, the courts, and yes, the press to guarantee that no new executive despot would arise to say arrogantly: 'I am the King.'"

"The need for a free press to help protect the larger freedom of all the people has not changed from the days of Jefferson, Thomas Paine and others who knew the terrible burdens that come when those granted power are unwatched, unchecked and thus unafraid to try to transform 'mandate' into despotism," said Rowan.

On the other hand, the so-called "liberal press" would have us believe that institutional racism is not reflected in the exclusion of non-whites from their corporate boards, from ownership, and from their ranks of editorial decision-makers. While criticizing other businesses, the liberal press apparently feels it is enough if they are just responsible for reporting the news through their "white eyes." "Do as I say--not as I do" seems to be standard operating procedure.

It was interesting to recognize that conservative forces were quick to point out to liberals that they were not applying to themselves the same measures for ending institutional racism that they were asking from others. By not allowing minorities in newsrooms, their case was perceived by many as outright hypocrisy. News stories are often incomplete, poorly researched and printed with lots of inaccuracies.

Where does the media get so much power that it can continue its hypocritical practices apparently unchecked? It comes primarily from your support--the support of readers and viewers. The newspapers with the largest circulations can demand the highest advertising rates. The television station or network with the largest viewing audience also gets the highest advertising rates.

Now for the good health of a newspaper to continue, from whom do the health remedies come? In my part of the country, they come from Sears and Roebuck, Jordan Marsh, Filene's, Lechmere Sales, Stop and Shop Supermarkets, airlines and cigarette manufacturer . These are the major advertisers who through their splashy, often colorful ads, show they believe that The Boston Globe remains a quality newspaper that helps their sales.

This is an area through which organized, serious and "together" groups can impact on media policy in both hiring and coverage. I can assure you that the various big advertisers recognize the demographics and buying power of all consumers, rich and poor. For instance, Coca Cola and General Motors know all too well that they can't afford to offend Black buying dollars or allow them to switch to Pepsi or Ford. Last year, Rev. Jesse Jackson's Operation PUSH demonstrated this clearly when Coke decided to be MORE UNDERSTANDING and cooperative. No one even had to demonstrate in the streets. It was pretty direct. Blacks were going to make keener evaluations and be more selective in their drinking habits. After all, those people in the Pepsi ads seemed to prefer that product over Coke. Black folks were thinking of investigating the merits of Pepsi.

Probably the media's biggest source of economic support comes through ad agencies that coordinate the bulk of advertising linage with their clients. They are also the persons who design and create the copy these images portray.

With newspapers--take for example The Boston Globe--66 2/3% of the paper is advertising space and 33 1/3% is the newshole (the more advertising, the larger the newshole). How many times are ads so cleverly designed that you can hardly distinguish them from the news?

The Madison Avenue crowd, with its ability to channel advertising into both print and electronic media, has a far worse affirmative action record than either

newspapers or radio and television. You'll find very few Blacks in decision-making slots on Madison Avenue and few are visible even anywhere in the plush offices. So here, too, a serious and related "attack" should fall their way. Bear in mind that the copy created by the agencies many times keeps Blacks, Hispanics, Asians and other minorities INVISIBLE.

How interesting that this month, February, happens to be Black History Month. The establishment media will, in most places, present, to a vast multi-racial, multi-ethnic audience many positive stories about famous Blacks--Frederick Douglas, Benjamin Banneker, Booker T. Washington, W. E. B. DuBois, Mary McLeod Bethune, Asa Philip Randolph, Dr. Charles Drew, Paul Lawrence Dunbar, Paul Robeson, James Weldon Johnson, Jackie Robinson, Jesse Owens, Althea Gibson, Benjamin O. Davis, Richard Allen, Ralph Bunche, Martin Luther King, Jr., Crispus Attucks, Thurgood Marshall, George Washington Carver, Phyllis Wheatley, Marian Anderson and Malcolm X. These great Americans have made superb contributions to the entire society, not just Blacks. Yet, we have to have a special day, week, and now a month, to campaign for proper recognition of the leadership qualities and achievements of great Black Americans.

Today, 60 percent of the country's daily newspapers still do not employ a single minority journalist. Minorities are inadequately represented in newspaper management and on big city dailies. And, I'm sure that neither The Charleston Daily Mail nor The Charleston Gazette is blazing a spectacular trail in affirmative action.

Here we are now--some 16 years later, after the Kerner Commission branded the American press as "shockingly backward"--still with far too few publishers, editors and journalist educators committed to making the ink less "invisible." It shouldn't be necessary to have a Black History Month. Americans today should be about the business of working towards equality and implementing all facets of the Brown decision.

You know and I know that we have with us and among us people whose intellectual credentials are equal to those who run the media. For that matter, we have people equal to those who run the major educational institutions and there are not even ten Blacks running top colleges or universities in this nation today.

Now not all white folk are mean and biased. Many are "neutral." I don't know to whom to attribute this quote but I think it is right on target: "Once racism is installed, you don't need a racist to maintain it--neutrality will serve quite nicely."

As we celebrate the anniversary of the Brown decision and acknowledge that great progress has been made across the board, we must at the same time be aware that the present conservative agenda of President Ronald Reagan signals a new threat to the rights and ambitions of 30,000,000 Black Americans. West Virginia, notable for having the first highest unemployment rate in the country, hasn't improved either. President Reagan and his followers are trying hard to convince white Americans that Black advancement has now become self-sustaining and needs no further impetus or assistance.

After the Kerner Commission lambasted the media back in 1968, a distinguished Black journalist, Lerone Bennett, Jr. of Ebony magazine, commented: "It is impossible to speak of mass media in America without adding the specification of white or Black media. It is impossible to speak of general publications when they are edited for white or Black."

Bennett elaborated further: "This is a fundamental fact of life and of the communications in America--divided public and divided communities. If we confront the implications of the fact, we realize that white-oriented media cannot solve the race problems in America because white-oriented media are part of the race problem."

Bennett's point was superbly illustrated in the selections of the top ten stories of 1983 ranked by United Press International on one hand and The National Leader, the country's largest Black newspaper, on the other hand.

The UPI selections were: Beirut strife, including Marine barracks and U. S. embassy bombings; Soviets down KAL jet; U. S. invades Grenada; Soviets break off arms talks; U. S. Economy, deficits and recovery; Benigno Aquino killed in Manilla; AT&T breakup; Europe, U. S. nuclear protests; artificial heart trial ends and Barney Clark dies; and Lebanon, Israel sign pact.

The National Leader's list: Grenada invaded; Jesse Jackson enters the presidential race; the first Black astronaut; Black mayors elected; MLK holiday becomes law; the march on Washington; the NAACP dispute; Reagan's policies that hurt the poor; the coup in Nigeria; the first Black Miss America.

At this point, I want to just throw something out for your consideration. Contrary to the popular view that integration is the only way, that ideal in itself does not offer either the advantages or ultimate rewards for many organizations. Nor in cases is it practicable. I refer, of course, to the Black press, once a vital institution, which is now nearing the top of the endangered species -- list.

The Black press is surely at a crossroad, especially since so many of us have opted for the comfort afforded by working for "the man." We rationalize about the benefits that come from diluting the white environment and about impacting on white practices. But what about the Black press? Who will stand for it? Who will support it? Who will supply the brains and dynamics to keep it alive?

We know of the vigorous and unstinting efforts of Ebony, Jet, Essence and The National Leader, all quality publications that have long served as the line of communication among Black people in this country. The poor or declining health of these publications is indisputable testimony to the fact that institutional racism is alive, well and thriving in America.

The system promotes and frustrates the needs of the Black press. There is little in the way of viable circulation support, and an eroding advertising base

contributes to the dismal position of the Black press today. This attitude is also reflected in the plight of the traditional Black college. A viable Black press and academia are crucial to our struggle for survival.

If the media is to intelligently interpret our constantly changing society, publishers and editors must continue their "catch up" affirmative action programs by active recruiting and training. I do mean educating with tender, loving care and understanding so that minority journalist interns like yourselves can come aboard to help close so many of the gaps caused by insensitivity in news rooms and provide interpretive bridges to all segments of the community.

Look at the plight of the country today, and the entire world for that matter. Media is largely responsible for the communication negligence and abuse that deprive us of learning how to bring about a just society. Take for instance the abuse of power that was demonstrated by some of the leading newspapers and columnists who helped get Ambassador Andrew Young fired by President Jimmy Carter. "He talks too much," they said. "He should be more diplomatic. He's in bed with all the Blacks in Africa," and, "He always has to retract his controversial remarks or have them clarified."

I say that "cousin" Andy was right on the case. I think that he did tell the truth, and our State Department and nation really are not prepared for this kind of honest conduct. The ambassador, in my judgment, displayed keen intellect.

Also, wasn't it interesting to see that the "establishment" media planned no advance coverage of importance on Jesse Jackson's venture into Middle Eastern diplomacy during the Christmas holidays. Hardly any "big time" reporters or anchors were in Syria at the time. Far too much coverage was being given to Cabbage Patch dolls and "blue collar" football results.

Unprepared for the smashing success of Jesse's victory, an embarrassed media scrambled to catch up on its heretofore sloppy, haphazard, ho-hum coverage. Everyone

got in on the act. And even though, he intended it tongue in cheek as part of a spoof on the Democratic presidential race, columnist Russell Baker, writing in a recent New York Times article, acknowledged rightfully: "Jesse Jackson's successful venture into Middle Eastern diplomacy had shaken the foundations of American politics. Before Jackson, Presidential campaigning had consisted of making a national tour of motels while emitting a wide variety of sounds. After Jackson, talk and automatic checkout service could no longer assure victory."

Thanks to Jesse, we had another instance of a significant Black leader making a breakthrough in a foreign relations logjam. His exhibition of intelligence and skill helped get the two sides together to talk and negotiate. The State Department, like the media, doesn't have sufficient COLOR to deal adequately with the threat of potential peril around the world. And we, as a nation, have to bring about meaningful "catch-up" rights, so that all worthy citizens might contribute to our well-being.

Yep! Although I've knocked the press and despite all its flaws and arrogance, which it surely demonstrates at times, it is still the best tool we have for helping keep a democratic society honest. We all just have to keep campaigning and demanding that the media improve its methods of disseminating information to our citizens and that the media remain credible, responsible and fair. The free press in this country is crucial to all people who believe in a democratic society.

CIVIL RIGHTS LAW AND THE BROWN DECISION

Jack Greenberg
Director - Counsel Legal Defense Fund

Thank you ladies and gentlemen. This past weekend I spent some time with a friend from England who told me a story that has some, at least to me, some relevance to the proceedings that have been going on this week. He told me that during World War II he had an Italian friend who was in exile from Mussolini living in England and who whiled away the time trying to learn English by listening to the radio. And one day he came to my friend in great excitement and said that he had heard a speech of Franklin D. Roosevelt, on the radio, advocating what later became known as the famous four freedoms and he was very, he was, he was excited. He was very happy to hear that in the new world, after the war would be won by the allied powers, we would have those four freedoms and my friend asked him what they were. He said, "Well, preeminent among them were freedom from thought and freedom from speech." I hope that by the time my speech is over you are not craving freedom from speech.

I'm talking to you tonight about Brown Against Board of Education and Civil Rights and I thought that a subtitle to this talk might be Presidents or Administrations I Have Known, because as I look back, I am astonished to be able to count that I have been practicing law through the administrations of Presidents Truman, Eisenhower, Kennedy, Johnson, Nixon, Ford, Carter, and now, Reagan. I'm going to try to talk to you a bit about what civil rights meant and where civil rights went during the administrations of most of those presidents.

Brown v. Board of Education just didn't happen spontaneously. It came out of an effort that began in the late 1920's and the early 1930's. It was

the product, the intellectual product, of a group of brilliant Black lawyers with whom I was fortunate to be associated, commencing in the late 1940's. They had begun a planned program of litigation, building case upon case, with the hope of achieving precedence that ultimately would lead to the demise of the doctrine of separate but equal which had been proclaimed by the Supreme Court of the United States in 1896. And they did that and I won't recount to you the cases that they brought, but they first brought the cases that outlawed segregation in graduate and professional schools and out of those precedents emerged the Brown Decision.

But the Brown Decision didn't happen all by itself. No group of lawyers as brilliant, well equipped, well put together as they might be, could change the ethos of the morality of the legal principles of a country all by themselves. Legal decisions don't happen in vacuums and just as Holmes once wrote, "Life of the law has not been logic; it has been experience." The country was experiencing things which contributed greatly to the emergence of Brown and what Brown really did was to capture that moment and formulate it in a way so that it could be proclaimed by the law.

And what was going on in the country at that time was a sense of morality that came out of the experience of World War II which, after all, was a war against Nazi racism, first and foremost. The country had experienced demographic changes in which the Black population no longer was concentrated in, almost wholly, living in the southern part of the United States, but became a truly national population. Black people had contributed to the war effort through World War II and, indeed, earlier in World War I and had shed their blood for the country in a way that created a debt which there could be no feeling other than it had to be repaid. There was a prosperity growing out of wartime experience which was not irrelevant to this process because I think

people can live out and express their better instincts when they're hard-pressed than if they were living as extremists. And the rest of the world, which was looking to the United States, certainly, appropriately could point the finger at the United States saying, "Here you are preaching democracy to us (particularly those parts of the world which were still under British and other imperial rule) and you're performing a species of internal colonialism yourself."

Now, all of these factors were expressed in a sense of national purpose in a famous document that has not received the attention in American history that I think it deserves and that is the 1947 report of President Truman's Committee on Civil Rights. The Truman Committee Report called for changes in American life and law, with regard to race relations, that became, that were carried out and were realized, almost to the letter over the next twenty-one years. When finally the Civil Rights Act of 1968 was passed abolishing, in law at least, segregation and discrimination in housing, every single one of the prescriptions in the 1947 act had been achieved, in law I have to emphasize. It called for an end of discrimination of the District of Columbia which was a separate national disgrace. Here was the nation's capital which was racially segregated and then to discrimination in housing, education, employment, voting, and then reflecting the sense of the issue of colonialism that existed at that time--something we don't even think about. Most of you probably don't even know, it called for liberation of the Phillipines, which was an American colony back in that time.

In addition to the Truman Committee Report, the national government, under President Truman, weighed in on the side of civil rights lawyers in some of their most important litigation and the Solicitor General, who is the lawyer that represents the United States and the Supreme Court, filed briefs on behalf

of Black civil rights lawyers and against racial segregation in a number of cases. And I might say this was not only true in the Truman administration, but the Solicitor General in the Eisenhower administration also filed briefs in the Supreme Court of the United States calling for an end to racial segregation. Eisenhower's justice department did the right thing, out of a sense of professionalism and out of where the government felt this country ought to go, though I think we all must recognize that when the moment of truth arrived and President Eisenhower saw the Brown Decision in 1954 as written by Earl Warren, his appointee, he was appalled. He had not really anticipated that something like this might happen and it is said that he never spoke to Earl Warren again after that. Nevertheless, he did nothing to get in the way of the implementation of the decision. And, indeed, when the first armed insurrection against the Brown Decision was raised in Little Rock in the late 1950's, President Eisenhower did what any president would have to do in order to prevent what really amounted to an armed rebellion against the United States. He sent the 101st Airborne to Little Rock to demonstrate that fact that the constitution speaks to all states and there is no separate state law so far as civil rights is concerned, at least since the 13th, 14th, and 15th amendments were passed--were adopted.

Moving from Eisenhower to Kennedy, the shift in national sentiment, its evolution, was manifest in the fact that, unlike Eisenhower who was silent on the Brown Decision, not attacking it publicly though disparaging it privately, President Kennedy supported the Brown Decision. He said he thought that Brown was correct and this then aligned the Supreme Court of the United States, along with the presidency, in support of the principle of racial equality. Though the Congress at that time was still in the iron grip of the south, the right wing of the Democratic party or of the Republican party, adament in its support, in its

effort to continue the regime of racial segregation through its control of senority, the chairmanship of various Senate and House committees, and through long senority because of the one-party system in the south.

Nevertheless, Kennedy spoke up for Brown and so we had the Supreme Court and the presidency on the side of civil rights. But President Kennedy was hard-pressed, when in early 1960, almost immediately after he became president, the great civil rights demonstrations--the great civil rights movements of the sixties commenced. There were the sit-ins, the freedom rides, the marches of Dr. Martin Luther King and other leaders. There was the litigation that some of us were involved in, the Meredith Case; later on the effort to integrate other southern colleges which by law should have been integrated many years earlier but still had been recalcitrant. And President Kennedy, while endorsing these efforts in principle, tried to discourage them and slow them down for fear that they would cause all kinds of political problems for him with southern politicians whose support he needed for other things that he wanted. He tried to talk the freedom riders and the demonstrators into not freedom riding and not demonstrating. He tried to talk Dr. King into slowing down his efforts. He tried to talk the lawyers for James Meredith into holding up his effort to register in the University of Mississippi. But when none of these efforts succeeded and he was put to the test of whether to support or to oppose those efforts, he supported those efforts. Then John F. Kennedy, as we know, was killed and was succeeded by Lyndon B. Johnson.

Lyndon Johnson was a vigorous proponent of civil rights. Whatever one may think of his performance during the Vietnam war, he was a civil rights activist so far when it came to the rights of American Black people. He fought and pushed for the passage of the Civil Rights Act of 1964 and 1965. Riding to some extent on a momentum created by guilt over the assassination of John F.

Kennedy, he was able to get those enacted into law. And not only did he help bring those acts, those bills into fruition and have them enacted into law, but he began the creation of the great bureaucracies which we sometimes disparage but which nevertheless are necessary for the execution of any great national program whatever it may be, be it Social Security, the National Labor Relations Act, various other types of environmental or other types of efforts. And so the Equal Employment Commission developed, the Office of Federal Contracts Compliance expanded, the Office of Civil Rights and the Department of HEW--all of these grew, as the only way that government has ever been able to affect national conduct on a wide scale throughout the many thousands or hundreds of thousands of individuals and institutions that have to be changed over a long period of time. At this point we had standing shoulder to shoulder the Supreme Court in favor of civil rights, the president and then the Congress with passage of these laws.

When Richard Nixon was elected president of the United States, he came to that office as no professed friend of civil rights. He was opposed to the integration of schools and attempted to get the Department of Health, Education and Welfare to hold back on implementing requirements of the law that mandated that it proceed to integrate schools. His Solicitor General opposed the integration of schools in the case that was mentioned earlier, Alexander Against Holmes County Board of Education in the United States Supreme Court. But to Richard Nixon's credit, he was not an idealogue on these issues and when he lost the Holmes case, he then proceeded to implement the law in the way the Supreme Court called for. And it is a fact that more schools were integrated, more school integration took place during the presidency of Nixon than of any other president that we've had.

Nixon, also, began the affirmative action plans known as the Philadelphia Plan with goals and timetables in employment so that Black people could not only

in theory be entitled to jobs but in fact would have the means and the assurance of achieving them in some sort of equitable proportions.

And in the Carter administration we had a continuation of this progress that we have seen up until the point that I have described to you so far. The head of the Civil Rights Division was Drew Days, a lawyer appointed from the office of the NAACP Legal Defense Fund, who administered that office with a fair and even hand but also went to, energetically saw to it, that civil rights was achieved in a variety of different ways and places. President Carter appointed more Blacks and women as judges than, several times over, than had ever been appointed before in American history. He began a policy of international human rights, proclaiming and making an effort to proclaim and implement American ideals to the rest of the world, in a way that not only had a salutary effect overseas, but that had a reflexive effect here in the United States. If now we were urging civil rights and human rights upon Argentina and the Soviet Union and South Africa, there was a double obligation upon ourselves to make certain that we had civil and human rights here in the United States.

And then we come to the presidency of Ronald Reagan. And here, for the first time, there is a 180 degree turn in the opposite direction. There is an adament, steady, idealogical effort to turn back the clock with respect to everything that is at issue. It is true that the persons who administer the, what would have to be called, the civil rights policies of this administration, because there's no other term for them, say that they are for the principles of Brown, and they are for the principle of the Civil Rights Act of 1964 and 1965. I have not checked the record of all of those individuals back against those earlier dates but I would warrant to say that a very large proportion, if not virtually all of them, were at the time that those decisions were up, that is the Brown Decision and the 1964 Civil Rights Acts were at issue, were not supporting them and indeed some of them were adamently opposed.

If we look at the record of this administration with regard to civil rights, I will just pick off some of the cases. There is the Seattle School Case, in which the city of Seattle, as a matter of local initiative, decided that it wanted to integrate its schools and so it began an indigenous, local, voluntary system of school integration with bussing that it chose to emply by itself. No federal court imposed it on them. The case got into litigation and the Reagan administration went to the Supreme Court of the United States urging that Seattle could not have its own self-selected, voluntarily selected school integration. The Supreme Court ruled against the administration.

The Voting Rights Act of 1982 was up for passage or consideration by the Congress. The Voting Rights Acts from time to time have to be renewed. They are not permanent legislation. The administration did not support the Voting Rights Acts. When finally it became apparent that the act was going to pass anyway, it supported by dragging its feet. It opposed the provisions of the act which were viewed as necessary to make it effective, and then finally when the act was adopted by almost unanimous votes in the Congress and in the Senate, the president then signed the bill into law.

Everyone here, even those who don't follow civil rights, has heard about the Bob Jones Case. Indeed, in the Nixon administration, one of the things I neglected to mention was that the Internal Revenue Service, as part of the national policy, decided that it would not grant tax exemption to institutions which segregate on the basis of race. One would think that's a matter of common sense. It doesn't really take a sophisticated legal opinion to understand the rationale behind that. Tax exemption is supposed to go to a charity. A charity is supposed to be something that helps the community at large. It certainly is not supposed to be engaged in doing any positive harm, and an institution which segregates on the basis of race ought not to be entitled to tax exemption. That had been the law.

The Reagan administration granted tax exemption to segregating academies. When asked why this was done, the response was that, not only is it the law, but no reasonable person could figure out any way to read to law other than the way the administration had read it, except the Supreme Court of the United States which ruled against the administration 8 to 1, because, in a case in which the Department of Justice would not argue for the validity of the laws it had bent, the Supreme Court had to appoint a "friend of the court" to argue the case against tax exemption for segregated academies.

In a variety of school segregation cases the administration has come out against school integration in a great number of different forms and I'm not aware of any case in which it has come out for school integration except a case in Bakersfield, California the other day in which it claims it has come out for school integration--a claim which I don't think would stand scrutiny. In Nashville, Tennessee there was a plan that was in effect for many, many years that the school board wanted to renege on. It went to the Supreme Court of the United States. The administration backed the school board. The Supreme Court refused to hear the case.

In Baton Rouge, Louisiana there had been a school integration plan in effect for years. The administration, with the school board, went and obtained an expert from Boston to come down and explain to Baton Rouge why the plan involving bussing was really not satisfactory. The Baton Rouge school board, pulling a kind of twist that I had not really anticipated, expressed the view that they were not going to take advice on how to integrate their schools from somebody who had come from Boston because Boston was a place which really had not demonstrated that it could do that sort of thing very well, and decided it would keep the integration that it had had all along.

In Charleston, South Carolina there is a school segregation case in which the administration has sued the school board and we suspected that the case might end up in a settlement of some sort of a sweetheart contract and so our office intervened in the case, in response to which the Deputy Attorney General in Charge of, Assistant Attorney General in Charge of Civil Rights said to his staff, who then promptly went and reported it to the newspapers, so how would we know what he said, he said, "Keep the bastards out. Make them jump through every hoop." The judge, however, let whatever we might be into the case, and the case is now proceeding in a posture in which it's not possible to decide it without regard to the interests and the wishes of a Black community there.

Only two days ago in Denver, Colorado, the administration filed a pleading in an effort to undo a school integration decree that's been in effect since 1970. And so that's the record so far as school integration is concerned--adament, persistent, unrelenting and with no indications of pointing in the other direction.

So far as employment is concerned, in one case after another they have intervened in an effort to upset affirmative action. Last year, in a case involving Boston firefighters, where the court had ordered, in fact they've been a consent decree, requiring affirmative action, some percentage of Blacks to be hired alongside a fixed percentage of Whites. In view of the fact that long persisting earlier discrimination, the Supreme Court refused to hear the case because it was moot.

In a case in Detroit, the case had gone on many, many years. The city of Detroit had voluntarily adopted an affirmative action plan. The administration attempted to intervene in the case. The court refused to permit them to intervene. They then filed, "a friend of the court," brief urging that the Supreme Court hear it and upset the affirmative action plan. The Supreme Court refused to do that.

In another case in New Orleans involving affirmative action for the police department, they've intervened in that. The result, the case is still pending. And in a case in Memphis which was argued in the Supreme Court of the United States a couple of months ago, they've attempted to overturn that affirmative action plan.

Not only do we see this sort of activity with regard to schools and employment, and I told you about the Voting Rights Act, but actually the Department of Justice has an administrative function with regard to voting. It's supposed to pass upon new schemes of voting to make certain that they don't result in racial discrimination against minorities.

In New Orleans they approved a voting rights plan which a three-judge court threw out. In North Carolina they approved a state-wide redistricting which a three-judge court has also just thrown out. And it's hard to say what is the most egregious thing that was done, but to me seems a contender for the prize, is the firing of three members of the Civil Rights Commission when the Civil Rights Commission was bringing the bad news to America, that the administration's policies were opposed to civil rights. This was enjoined by a federal district court. The commission then expired of its own natural life. A political deal was struck in which a new commission was supposed to be appointed. It was worked out that there would be four supporters of the administration and four supporters, four persons opposing the administration, on the commission as part of a political compromise and then the administration double-crossed those who'd entered into the deal and appointed six opposed and two in favor of civil rights.

So there has been until now, in any event, until the last three years, a steady, though uneven halting curve of progress, in support of civil rights.

There've been problems, there've been disappointments, there have been areas that have not been touched or have been touched inadequately, particularly with regard to the economy and that multitude of factors that are so ineffable and difficult to deal with through government, the breakdown of many Black families.

I don't think that the history up until now necessarily entitles us to have the belief that there will always be progress. I think whether one is a pessimist or an optimist depends not merely upon an assessment of historical circumstances but upon one's own temperament and outlook on life and so I tend to think that there is, it is likely that there will be or can be progress, but it isn't necessarily so. The last three years, however, have caused me great concern, and for the first time in my life, to doubt that we have been progressing until 1980.

Nevertheless, in the efforts to set back civil rights, which this administration has engaged in, as I have recounted to you, they have almost always lost. Now they have almost always lost because the ethos of America has been instilled in our law and our law has been expounded by our courts. We face the prospect, however, that over the next four years the composition and the personnel of those courts will change drastically and that of the Supreme Court of the United States will almost certainly change very, very markedly. And if that may be true, then I think we are in for a long, grim, cold period in civil rights which will last for perhaps a generation.

So the next election, more than any reading of a particular rule of law as it stands today, will tell more than anything else where this country's going to go with regard to race relations--not merely the next election with regard to the presidency, but with regard to all manifestations in the political process--the Congress and the Senate and state and local elections. But I think we are at a

point, a critical point, in which matters can either continue moving ahead with the slight impedence we've had until now or slow down and come to a standstill and perhaps even go backwards. As for me, I like to think of it, I hope the last several years, perhaps as an analogy with what's been happening with our space missions. Ever since there have been space missions they have all gone perfectly. Everything has been roses. Nothing that I can think of seriously has gone wrong in space--except this last trip. We lost two satellites and a balloon. They say they found the problem and it won't happen again, and if it doesn't happen again we will have had a long history of space missions with inconsequential loss of two satellites and a balloon and I would hope that we can look upon these past three years that we have had, after the next election, as a brief interruption in a long upward curve of equality for all Americans and particularly Black Americans in the United States, interrupted only by the loss of two satellites and a balloon.

Thank you.

DESEGREGATION/INTEGRATION AND THE MEDIA
FALLOUT FROM THE BROWN DECISION IN WEST VIRGINIA

W. E. "NED" CHILTON, III
PUBLISHER, THE CHARLESTON GAZETTE

I'm honored to be here tonight and feel unworthy for several reasons. One: I am not a scholar and don't have the academic credentials or researcher background to do justice to my task. Two: Newspapers are interested in what happens today, not yesterday, and I have that occupational handicap. I am a now person. Three: This may be the most important reason of all. I was privileged, or not, depending upon your viewpoint, never to have been required to ride in the back of a bus.

Before I tackle the subject, a personal reminiscence. This spring the Gazette will sponsor the forty-eighth running of the Gazette relays. Originally, the relays were restricted to white schools. How the barrier was cracked may be of interest. One afternoon in the early 1950's, prior to the Brown ruling, a gentleman came into my office, sat down, and introduced himself as Harry E. Dennis, principal of Garnet High School. I was then Gazette Promotion Manager. He asked if Garnet's track team could enter a team in the relays. The absurdity of not allowing Garnet, Kanawha County's Black high school, to compete was brought home to me when Principal Dennis noted that we permitted teams from Ohio to participate. Ohio schools, being integrated, had numerous Black athletes. I would like to be able to say this ridiculous inequity was corrected at once, but such wasn't the case, if my memory isn't playing me false. It was corrected the next year. One other detail of Principal Dennis' visit has stayed with me over the years. As he was about to leave, I told him that I thought it was wonderful of him, a white man, to champion Blacks. He looked at me with astonishment and said, "Mr. Chilton, I'm a Negro. At that time, Charleston's theaters

barred Blacks. Not even a special section was available, although Charleston's Municipal Auditorium sold tickets, first come, first served. Anytime Principal Dennis wished to see a movie, which wasn't very often, he had no trouble passing, and he told me of an incident in a southern community that reminded me of what happened to Walter White, former head of the NAACP. In Atlanta, White went to a baseball game one afternoon and sat in the section designated "Colored Only." A burly policeman soon spotted him and told him to get out of there and sit in the section which he belonged and quit trying to cause trouble.

At this juncture, let me say that Fred Glazer, Director of West Virginia Library Systems, Elizabeth Scobell of your own library, and Lawrence V. Jordan, former Supervisor of Student Teaching at West Virginia State, supplied much of the information I'm about to relay to you. Let me hasten to add that any glaring errors are not attributable to them but wholly to me.

The struggle for racial equality in West Virginia is filled with contradictions. Who was on the wrong side of Brown versus The Board of Education of Topeka? John W. Davis, the only West Virginian who ever ran for president, in 1924, who in his youth had defended Mother Mary Jones and socialist Eugene V. Debs and who became the nation's most distinguished constitutional lawyer, was on the wrong side. A footnote: Davis' daughter, Julie, and the wife of Thurgood Marshall, who won the Brown case, sat beside each other while father and husband argued before the nine Supreme Court justices. To balance Davis' representation to retain a national evil we have, once the decision had been rendered, the action of West Virginia Governor William Marland. He said, and I quote: West Virginia will combine schools quietly and smoothly. We will do whatever is right and proper. The law is the law. It applies to everyone of the two million citizens of West Virginia.

Governor Marland's firm stand was endorsed by the State Superintendent of Schools, then an elected constitutional officer, and by Attorney General John Fox. Fox declined an invitation to attend a conference of legal officers called by Georgia's Governor Herman Talmadge, saying he wouldn't join an effort to defy the national law. Thus, the proper tone was set, but the readiness of West Virginia's executives to obey the law of the land didn't produce instantaneous integration. Their willingness did make clear, however, that despite the segregation mandate in its constitution, West Virginia no longer would heed this illegality or side with states formerly found in the confederacy whence West Virginia had split during the Civil War. Also instructive was the warning from a northern county judge. Upon hearing that a number of parents had determined to boycott the public schools because of integration, the judge declared that West Virginia law provided that children must attend school until age sixteen. If a concerted effort was mounted to break the law and prevent children from being educated, he announced that he would put them in jail until their feet stuck out. That ended the anti-integration movement in Marion County.

Another personal reminiscence. A year or so after Brown, Benjamin Fine, Education Editor of The New York Times, took a trip through the south which included Charleston, West Virginia, to report on the progress of integration. One evening he sat in my home with my sister and my wife, Betty, and told us that Charleston's public school system was more integrated than New York City's.

Blacks began attending West Virginia University extension classes in the mid-1920's. Graduate and professional schools of the university were opened in 1938 following a Supreme Court decision.

In 1948, the state's Attorney General opined that state law didn't prohibit the teaching of two races in private schools of nursing. The opinion was interpreted to include all private schools and colleges, and shortly thereafter, Black

students were admitted to one catholic high school and to Alderson Broaddus, West Virginia Wesleyan, Bethany, and Davis and Elkins.

For a decade prior to the Brown case, conferences sponsored by the West Virginia Department of Education were integrated in all activities, business and social. Additionally, in some counties Black and white teacher's meetings were integrated, as were some county secondary principal's meetings.

Immediately following the Brown Decision, all curricula and facilities at state colleges and the state's one university at that time were opened without racial restriction. That first year, all white schools except Glenville enrolled a few Blacks and the state's two Black schools enrolled whites.

Sixteen of West Virginia's fifty-five counties did not integrate schools. Nine had no Black schools. Officials of one of the thirty integrating counties, Mr. Jordan didn't provide its name, enrolled a Black during the summer session, subsequently changed their minds and announced that the county would revert to a policy of segregation in the fall of 1954. The same county enrolled five white students in trade courses in a Black school and one white student in a Black elementary school. Thirteen counties integrated some schools but not others. Still another county witnessed some Black students attending the Black high school in the morning and one of the white high schools in the afternoon.

These examples are furnished to illuminate the truth that just as segregation in West Virginia made no sense, the same, alas, applied to integration at the outset.

Worse was the fact that while schools were integrated, many institutions and facilities weren't. Restaurants remained closed to Blacks. About that time, Woodrum's in Charleston, far and away the biggest and best furniture store in the state, opened a splendid tea room. From the start it was integrated. But it was years before Charleston's Diamond Department Store integrated its dining

facility. Again, I recall a personal incident. Following an editorial in which the Gazette chastised the Diamond for senseless sales practices, offering merchandise to Blacks while limiting services to them, I received, late one afternoon at home, a telephone call from the department store's president. After remonstrating with me about the editorial, he asked the question, "How would your wife like having her hair done in a beauty parlor also serving Blacks?" I said, "Wait a minute. I'll ask her." So I asked her, and she said that prospect didn't bother her, but if I didn't get off the telephone and get ready for a party to which we were invited, I would be in a lot of trouble. The president heard our exchange, and when he said goodbye, I could tell he felt my wife had let him down.

Also at this time, Charleston's white hotels had refused to accept a reservation from Ralph Bunche, distinguished Nobel Prize winner and one of the principals in founding the United Nations. He had come to Charleston to speak at the state capital. Here's another personal reminiscence. In a conversation with Willard Brown, Charleston lawyer, I had learned that Huntington's hotels were accomodating Black guests. He had recently been one. In an editorial, I urged Charleston's hotels to duplicate Huntington's policy. To my astonishment, a middle-aged man who I know by sight but not by name, came into my office the day the editorial appeared to protest. During our discussion, he told me that my information about Huntington was incorrect. I said that I didn't think it was. We argued. Finally, I picked up the telephone and called Brown, who assured me that the editorial was accurate, and if I had any doubts, I could call the manager of the hotel at which he had stayed. I relayed this information to my visitor whose parting remark was, "Are you going to believe that nigger or me?"

The first legal action taken in West Virginia against a board of education was taken in 1926 to permit Blacks to use the facilities of Charleston's public

library. Twenty-nine years later, six actions were filed to initiate or to accelerate desegregation of schools in Greenbrier, Raleigh, Mercer, Logan, McDowell and Cabell. In the Greenbrier County suit, defense counsel intimated that the Board of Education might not obey orders of the federal court. Judge Ben Moore said that if members didn't obey his orders without appealing to a higher court, those members would be put behind bars.

Across West Virginia the media's reaction to the Brown Decision was one of acceptance. No editorials I'm aware of suggested either that the decision should be defied or that it was a judicious monstrosity, as too many newspapers located to our south trumpeted. The general attitude is perhaps best summed up by an editorial in the Wheeling Intelligencer entitled Equality Under Law. The editorial said, and in part I quote: Even those who have practiced and supported racial segregation have known that it is a denial of the basic American principle of equality of citizenship. (Unquote.)

Then the editorial focused on the court decision, saying, and I quote: It is difficult to see how anybody can quarrel with that reasoning. It simply means that under the law there is no color or class distinction. Everybody knows that to be true. Everybody knows that it always was true, and that the separate but equal facilities doctrine was simply a legalistic means of avoiding the consequences of a declaration of right for which public sentiment was not yet prepared. (Unquote.)

At the other end of the state, the Bluefield Daily Telegraph noted of the Brown Decision that both the Eisenhower administration and the Truman administration favored ending segregation. In the south, the editorial said, and I quote: Where most of the Negroes reside, but do not vote in large numbers, the politicians were violently opposed. In the north and west, where few Negroes reside, it was no political problem. The border states, like our own West Virginia,

were divided in sentiment. (Unquote.) The editorial then pointed out that it would require a year or more to work out the details to end segregation and recommended in the interim that all citizens, white and Black, should remain calm, because, said the editorial, and again I quote: Right or wrong, the Supreme Court is the highest authority in a national government by law. It is the last word. We must abide by the decision. (Unquote.)

It would be wrong to suggest that West Virginia integrated its schools as quickly as the state should have, but when one considers what happened in too many states, the West Virginia record is light years superior. Moreover, by 1960, the schools of the state were largely integrated and by then it was additionally clear that except for pockets of resistance, our state would be integrated in all respects. In bringing about the changes that should have been brought about years previously, relationships between whites and Blacks weren't damaged. Had they been, I doubt that Teddy White in his book, "The Making of a President," which as we all know was his account of John Kennedy's presidential quest, would have written, and I quote: To this bleak picture of hunger and politics one should add, in all justice, a condition that most of us who reported West Virginia in the spring found little time to note--that these are handsome people and, beyond doubt, the best-mannered and most courteous in the nation. These are people who teach their children to say "Sir" and "Thank you" to their elders; they speak in soft and gentle tones; their relations with their Negroes are the best of any state with any significant Negro population, north or south. The Negroes, being treated with respect and good manners, reciprocate with a bearing of good manners and respect. Whether on a West Virginia bus or in a crowded West Virginia store, men and women are well-behaved and friendly. (Unquote.)

Not all discrimination in America, I'm sorry to say, has ended. On the job front, Blacks are still the last hired and the first fired. Even so, this situation is improving. The overall ratio of Black to white income is 74 percent, but note please, that the higher the educational level, the higher the income ratio. Among college graduates, Black to white income is 90 percent. So Blacks attending this school are making a wise investment in their and their country's future.

I want to end my talk on a positive note, because, following the Brown Decision, West Virginia's attitude toward it, official and unofficial, was positive. The state would comply. Thus, one year after the decision, the Wellsburg Kiwanis Club, whose membership was white only, passed a resolution commending the Brooke County Board of Education and county school officials for their prompt and effective integration of the public school system. And to validate this resolution, the club voted to drop its "White Only" exclusion rule.

The Roots of Separate and Unequal: The Virginia and West Virginia Heritage - 17th to 20th Century

The Honorable A. Leon Higginbotham
Judge, U.S. District Court, Philadelphia

Mr. Long, Dr. Cole, ladies and gentlemen. I have had many fascinating introductions over the years, this is the first one which I think a very, very subtle hint and what it is, is that if you want to get me or someone else appointed to the Supreme Court, you should support Jim Long for president.

I am delighted to be at West Virginia State. It is a legend in it's time. As I was saying to Dr. Cole at breakfast this morning, when I grew up in Trenton, I never heard anyone discuss Yale, where I subsequently went, or Harvard or the University of Pennsylvania, where I subsequently taught. I heard of great schools, of Lincoln, Fisk, Howard, Morehouse, and above all, West Virginia State. And, what has impressed me over the years is that I have met many very talented individuals, who had their roots there and I am delighted to be here at this college and to see your outstanding president again, and so many of my good friends.

There is a story told about a Philadelphia lawyer who went to heaven, if you can imagine a Philadelphia lawyer going to heaven. And when he got there, he was asked to describe what was the most significant event in his life. He started to describe the Johnstown flood and he went on to say how the river had peaked, the damage to the trees, the damage to the houses, and since everyone was listening rather attentively, lawyers can't resist attentive audiences, he went on and on and on and then finally Moses arose. And Moses said, "Well, counsel, it is interesting about the Johnstown flood, but I think that you should know that Noah is in the audience." As I look out on this program and as I look at the people in the audience I do know that you have some Noahs. I don't know whether Bob Carter is still here but I can recall my first year at Yale Law

School, where a professor who sort of adopted me and was my mentor in many ways, had clerked for Justice Black of the United States Supreme Court. He got me an opportunity to have a seat at the Supreme Court with the justices' clerks in the case of McLaurin v. Oklahoma being argued, which was one of the key cases before Brown. Establishing the fact that a state could not segregate at the graduate school level where students were admitted to their schools. It was a thrilling experience. Over the years Oliver Hill has been one of the great giants in developing American jurisprudence. I hope that some of the young people here will get a chance to talk to individuals like Oliver and Jack Greenberg, who have made such an extraordinary contribution and to Bob Carter.

Some years ago Jack Kennedy wrote a great book, before he was president, Mr. Long. It was called Profiles in Courage. It is fascinating, because it talks about senators who went against the grain, and congressmen who went against the grain of their constituency. They took positions for the overall public interests even though they knew that they might ultimately lead to their defeat and they were Profiles in Courage. But, today as we look at what's happened in America - as we pause here to celebrate the Brown case, or more accurately, to evaluate it. The truth of the matter is that the nation of more than two hundred and twenty five million took probably less than fifty people who played the key and the strategic roll in bringing about the change. The reason I mention this to you before I get into the substance of my remarks and speaking particularly to the young people, it indicates that individuals make a difference and the type of steadfastness and energy and drive, which the Bob Carters and the Jack Greenbergs and the Oliver Hills and the Spottswood Robinsons and my judicial mentor William Hastie and Charles Houston. All of these individuals sat in classrooms the way you are now. They had a dream that America can and must be better, and because of that, they hitched their drives to their dreams. There have been profound differences.

We meet today on the 30th anniversary of the Brown case. And, certainly it is appropriate to assess its impact and significance--both to West Virginia and the entire nation. In America, there will always be disputes about how much progress has been made since Brown. In America, there will always be disputes, as to how far the journey is ahead despite Brown, to have a truly egalitarian society. Egalitarian, not merely in theory, but more so in results--but whatever the debates which you might hear--it is significant that this university be commended. Because the highest calling of a great university has to always be, to review our past with rigor, and to thereby provide a realistic prospective by which the present can be understood, and the future anticipated and molded.

Some of you may be familiar with the old lines of George Santayana, if I may rephrase some--"that he who does not know the lessons of history will be doomed to repeat its worst mistakes." And thus I applaud you for this assessment, but this assessment has a couple of very serious dangers. The first one is that we may be looking at the wrong time span. Any ultimate assessment of the success or failure of Brown may depend on how closely one identifies with the persons who control the leaders of power and determine the pace of change, or how closely one identifies with the victims of racism.

Louis Pollock, former Dean of Yale Law School, former Dean of the University Of Pennsylvania Law School and now a Judge in United States District Court, the court in the circuit in which I sit, wrote a fascinating book on the Supreme Court about ten years ago. He, looking at the Brown case with scholarly and professorial detachment said "except for waging and winning the Civil War and World Wars I and II, the decision of the school segregation cases was probably the most important governmental act of any kind since the Emancipation Proclamation." And that is correct, at least as I see it. But, what is the danger of an analysis today? It is if we look at the time frame of only the last thirty years, we will be looking

at it without recognizing that there has been a corridor of history. I submit to you to understand the Brown case, we must understand the race relations near you in West Virginia from the date of its birth as the 35th state in 1863. We must understand America's mentality from almost the first time when a Black man landed in Virginia in 1619. Some might even say to really understand Brown, that one must go beyond the four corners of the pages in the various decisions, that you must probe about the nature of man, and you must ask why is it that a society can at one moment produce a Thomas Jefferson, a James Madison or George Washington, and at the same time produce a system administered through these men which would impose such pervasive cruelties to millions of individuals.

I am not a chemist like your distinguished president but I did have a slight background in science and I was trying to think of what analogy there is that one may want to look at to give as an example of what type of lens should you look at Brown. Often I find an analogy is much more persuasive than a thousand pages. The first analogy I started to explore a bit was epidemiology, a branch of medical science that deals with the problems of disease in a population, and I started to compare the culture of slavery and racism in America as if it was the equivalent of some dreadful poisoning and often fatal virus. Those of you who are drama majors can imagine how you could carry that analogy on. You could look at nine Supreme Court Justices as if they were Nobel Laureats attempting to create an effective vacine to eliminate the dreadful poisoning and often fatal virus which has engulfed America for so long. You would then say, what is the Brown case? If you would look at if from a chemical standpoint, it was an immunization based on constitutional principles designed to erradicate the violent disease of racism that has afflicted our nation for centuries and so many of our people. Even after thinking of that analogy, I thought there might be a better one and the one which I will try to use with you today is to look at Brown from a botanist's perspective.

Perhaps the Brown case could be described as a new species which the Supreme Court attempted to plant on our American landscape. Its birth in 1954, as the Brown case, was pronounced. It was neither a mighty oak nor a strong redwood or even a beautiful orchard. When the Supreme Court announced that doctrine in 1954, we received at most, a sapling, and 30 years later, we're debating as to why it was not strong enough to make the type of success we would have liked. But what would a botanist say when looking at a sapling planted in the soil. They would first want to analyze the soil, and they would want to explore some of the other related phenomena in it.

When the Supreme Court announced the Brown case, for those of you who have been at the Supreme Court, you know what a magnificient marble palace it is. But, it's more like an isolated green house, where one can experiment with plants, but what was the problem which America had to face? They had the challenge of enforcing the Brown decree, a sapling which would not be in a green house or an antiseptic environment. It was a sapling which had to be planted on American soil, the American soil of Mississippi and Alabama, Virginia and West Virginia, North and South, ocean to ocean. And, that soil has been for more than two and one half centuries, a quagmire, often hostile to the concept of equal justice for Blacks.

To appreciate the analogy, to understand the importance of Brown, we must look at the pre-Brown era, and we must understand what happened in our land when others had attempted to plant ideas for the cause of equal justice for Blacks. We must understand the efforts of the spiritual Quakers, the daring Sojourner Truth, the militant Frederick Douglass, the eloquent William Lloyd Garrison. We must also understand how the tree of liberty was stunted by most white Americans, and tragically, even by the framework of the Declaration of Independence, and how the soil became polluted and toxic, by the likes of John C. Calhoun, Charles

Cotesworth Pinckney, Jefferson Davis and Robert E. Lee. The struggling sapling in the past was kept in perpetual darkness, denying it the sunlight of enlightenment. The twig of liberty seldom got the critical nutrients of rain, moisture, for what we would call justice and equal opportunity.

This morning I would like to look at some discreet facets of the past which exemplify a fragility of the early American environment, which perhaps reveal it toxicness and its unhealthiness. In the early years, the pollution of the American soil, and the denial of sunlight and rain, and the creation of an unfavorable environment. We had caretakers and who were our caretakers? Our caretakers were Jefferson, George Washington, and Patrick Henry.

Now, some in the audience might say, why is this judge up here in 1984, discussing a 1954 case going all the way back to slavery? Isn't this just another example of polarization, of someone speaking to antagonize rather than to bring insight? That's not my purpose. I submit to you that there is a common denominator, that there is a root which remains unchanged between the doctrine accepted by many to justify slavery, and the doctrines that were later articulated to justify the separate-but-equal rationale. The commonality is that during the time of slavery, white men of apparent stature, learning and esteem, felt that for some reason society could do to Black people that which they could not do to any other major group in America. Thus, from 1619 to 1865, they felt they could enslave Black people, yet for them it would have been unthinkable to enslave whites in the 17th, 18th, and 19th centuries. We all know that whites could and did pick cotton. We all know that whites could and did harvest rice. We all know that whites could and did hoe tobacco, and we all know that whites were not enslaved. Why weren't they? In the years I have had the pleasure of teaching, and I have taught at Harvard, at Yale, at the University of Pennsylvania, at

Michigan and Hawaii. Somewhere along the time when I am going over a course on race in the early American legal process, I give the students a hypothetical and on the board I say suppose, suppose that in America you could have had white slaves and that your white slaves for the production unit you want would cost you a hundred dollars per year. And if you had Black slaves it would cost you one hundred dollars per year. In our society who would have been chosen? They always say Blacks and then I play around with the hypothetical and say it would have cost one hundred fifty dollars to have a Black slave and one hundred to have a white slave. So therefore it would be cheaper to have whites performing the labor. Whom would you choose? Never in the almost twenty years I have been teaching have I ever found a substantial majority of the students vote anything other than the fact that Blacks and only Blacks would have been enslaved.

So let us look at the rationale. Because it is so much related to the separate-but-equal doctrine, it is a doctrine and a philosophy that expanded over this nation for centuries--that Blacks could be treated in a fundamentally different and hostile way than the society would ever treat Jews or Catholics, Italians or Irishmen, or any other person whose pigmentation was white or near white. I am fortunate to have friends from a very pluralistic background and I know that many people come to America with hardships, that many people faced great difficulties of economic survival, but there is no group in this country which comes anywhere close to the level of cruelty which confronted Blacks. If you have any doubt about it, let me give you an analogy for a book I wrote. Let me read to you one advertisement which is in that book. It reads as follows:

> A Negro woman, 24 years of age and her two children, one 8 and the other 3 years old. Said Negroes will be sold separately or together, as desired. The woman is a good seamstress. She will be sold low for cash or exchanged for groceries. For terms, apply the Mathew Place.

Above that I have another advertisement which speaks of 120 Negroes for sale. The subscriber has just arrived from Petersburg, Virginia, with 120 likely young Negroes of both sexes and every description which he offers for sale, on the most reasonable terms, and it goes on to describe them, and it ends with this phrase in bold print, "And several small boys without their mothers." Let us look at that mentality. Anyone who puts an advertisement into a newspaper today, stresses the good points. If you were going to sell an automobile, you say, "A car for sale with automatic transmission, with air conditioning, with power steering." I have never seen anyone say "Car for sale. Brakes don't work. No radio," because what you are trying to do is to get a consumer to become interested, and what does it mean when you read an advertisement? This is typical of thousands and thousands and thousands which are published in your original state of Virginia..."several small boys without their mothers." For some reason the mentality in that society was such, the soil was so polluted, that they were saying that you can destroy a family and that a boy who does not have his mother, for some reason, may be a more valuable product in the market place. Just think of it, the advertisement I read to you, of a woman who had committed no crime, to have her children 3 years old and 7 years old snatched away from her and sold in exchange for some groceries. And, therefore there is a nexus between slavery and the Brown case and that point was argued before the Supreme Court.

There is a magnificient book by Leon Friedman on the Brown case. It is called Argument, and it has verbatim much of the transcript, as the case was argued. At the end of one of Thurgood Marshall's arguments there was this dialog between him and Mr. Justice Frankfurter, who was being too socratic and too professorial in my view. Ultimately Thurgood Marshall, if you read the transcript, says:

> "Why of all the multitudenous groups of people in this country, do you have to single out the Negroes and give them this separate treatment?"

And, that is the core of what was involved in that case and in the hundreds of cases which proceeded it. Let me read to you how Mr. Marshall, then, not Justice Marshall, but Thurgood Marshall, brilliant advocate, concluded his argument that day. He says, speaking of the separate-but-equal doctrine...

> "We charge that they are Black codes, they obviously are Black codes if you read them. They haven't denied that they are Black codes, so whichever way it is done, the only way that this court can decide this case in opposition to our position is that there must be some reason which gives the state the right to make a classification that they can make in regard to nothing else, in regard to Negroes. We submit the only way to arrive at this decision is to find that for some reason Negroes are inferior to all other human beings. Nobody will stand in the court and urge that, and in order to arrive at the decision that they want us to arrive at, there would have to be some recognition over reason. Why of all the multitudenous groups of people in this country do you have to single out Negroes and give them this special treatment? It can't be because of slavery in the past because there are very few groups in this country that haven't had slavery someplace back in the history of their groups. It can't be because there are Negroes as white as the drifted snow with blue eyes, and they are just as segregated as the colored man. The only thing it can be is an inherent determination that the people who were formerly in slavery, regardless of anything else, shall be kept as near that stage as possible. Now is the time, we submit, that this court should make it clear that that is not what our constitution stands for."

I have read the record of the Brown case carefully and I have read the briefs many times. I think that was probably the critical turning point, because he was saying to justices in the United States Supreme Court, "after all that our nation has done in fighting Hitler, after all that we've said in making the world safe for democracy, are you, are you going to come up with a doctrine which is not dissimilar to that which Hitler advocated, that some people under the law are inferior and, therefore can be treated differently? And what is it that we

have to come to grips with, an understanding of that slavery period--it is to look at the Thomas Jeffersons, to look at the Patrick Henrys and say, "Why?"

Thomas Jefferson wrote these magnificient words:

> "We hold these truths to be self-evident, that all men are created equal, that they are endowed by their creator with certain inalienable rights and that among these are life, liberty, and the pursuit of happiness."

And, how could he at one moment write that eloquent statement to all of mankind about the inherent and natural rights of man and then go on to write this advertisement. On page 477 of my book, there is an interesting footnote, and it says, "Run away from the subscriber in Albemarle a mulatto slave called Sandy, about 35 years of age. His stature is rather low, inclining to corpulance." Now let me just pause here for a moment, students. I want you to recognize what a great writer Thomas Jefferson was, even when doing a slave advertisement. At Yale, we would have said he was short and fat, but not Thomas Jefferson. He says his stature is rather low, inclining to corpulance. What is important on that advertisement is what he says at the end. "Whoever conveys the said slave to me in Albemarle shall have 40 shillings reward if taken up within the county, 4 pounds if elsewhere within the colony and 10 pounds if in any other colony." It is signed with that magnificent scroll--that scroll which appears on the Declaration of Independence, that scroll which appears on the early drafts of the Declaration of Independence and on hundreds of executive orders and decrees and treaties, Thomas Jefferson. That is the ambiguity in the American process, how Thomas Jefferson could sell Sandy, without hesitation, or capture him while at the same time demanding that the King not impose on them taxation without representation.

Perhaps the most famous lines given by any American orator took place in Oliver Hill's hometown. He probably gave the most famous ones, but I haven't read them so I have to look at Patrick Henry. In 1775, on March 23, when he

stood up at the Virginia Convention meeting at St. Johns Episcopal Church, and he said, "Is life so dear, or peace so sweet to be purchased at the price of chains and slavery? Forbid it almighty God, I know not what others may do, but as for me, give me liberty or give me death." He talked in terms of chains of slavery. What he meant was taxation without representation and thus the significance of the Brown case is that it was created by what I call affirmative action. It was created by a society where individuals who were nobel in many respects but cruel in others in terms of the way in which they ran the society. No one captured it better than Dr. Samuel Johnson, criticizing the colonists. He said, "that their logic was too foolish for buffoonery and too wild for madness." Why is it if slavery be thus fatally contagious, that we hear the loudest yelps for liberty among the drivers of Negroes?

Now, I do have an article in the current issue of The West Virginia Law Review, where I spent a lot of time looking at what happened in West Virginia, and thus for the moment I would like to pass that. But West Virginia which broke off from Virginia during the Civil War, has one of the most interesting and fascinating and I might say, contradictory histories one could come up with because West Virginia refused to secede from the Union. When you look at West Virginia, you get another aspect of why it has been so difficult to get the tree of freedom passed. I guess it is a concept of gradualism. You see most school children are told that Abraham Lincoln freed the slaves. He authored the Emancipation Proclamation. That is not a precisely accurate statement. Abraham Lincoln freed some of the slaves. He freed the slaves in the states where there was a continuous rebellion, but as you read the Emancipation Proclamation, you will see that he makes a specific exception as to certain counties in West Virginia. So what do we have as the great irony in American history? Slavery was permitted to be continued in West Virginia after it had been abolished in all of the states which

had seceded--that is abolished by Abraham Lincoln's Proclamation. And what was it that West Virginia did? They passed a statute which took effect on July 4, 1863. This statute is fascinating for many reasons--because it's a gradual emancipation statute and in my article in The West Virginia Law Review, I've got lots of footnotes and details on it, but what it was, that if you are over 21 years old, you would not be freed. If you were between 10 and 21, you would not immediately be freed, and if you were 10 years old, it would be 15 years before you could become free. So West Virginia, which has this image for liberalism really was an extraordinary state. It broke from Virginia. It articulated a lot of liberal statements, and then it imposed by statute. I'm quoting you a statute, ladies and gentlemen, an emancipation process which would have taken 25 years for some people, and thousands of slaves would never have been freed. So what is it that happened in West Virginia? It is that slavery continued here, and Abraham Lincoln had a lot of dialogue with your leaders saying you must at least get a gradual emancipation statute, but slavery was not abolished in West Virginia. The 48 counties which constituted West Virginia until the 13th Amendment was passed in December of 1865. I mention that to you because as I read what I submit, in all due respect, is often far too romantic to comment on the state of West Virginia. It is that you weren't as good as you claim to be, and the statutes of your state proves that you weren't.

Now let us get past the West Virginia situation. What is the other thing one must understand in terms of the importance of Brown? You know, in America we speak in terms of the, of the importance of education. That's why all of you young people are here. You hear it day in and day out, of education as the passport to excellence. Education is the way under which one moves ahead. What was it that you had in Virginia and West Virginia during the days of the 1800's? It was an absolute commitment to ignorance, vigorously enforced. And what was it

that was feared most? Now let me read to you, and I found that when I spoke at West Virginia University some people started challenging me, so I will give you lawyers' citation. If you look at chapter 120, title two, it was a statute passed March 14, 1848. What was it that Virginia passed a law on? It says, "Any white person who shall assemble with slaves, free Negroes or mulattos, for the purpose of instructing them to read or write, shall be punished by confinement in jail." Now think about this a little bit, ladies and gentlemen. When some people saw Kunta Kinte have his leg amputated, they reacted with shock and horror and said what a cruel act. That was not a crime. In fact, one could argue that under the law it was an act of mercy, because they could have cut off both legs, both arms, could have castrated him, could have killed him, because he had the greatest nerve anyone would want, he wanted to steal his own body and go into freedom. And, that was a crime. He could be killed, anything could happen. But crime for the Black, no crime for the person who would kill him, no crime for the person who would amputate his legs. But what is it his master could do which would be a crime, which would make it something for imprisonment? To teach him how to read and write. And the reason why Brown has to be so important is that Brown is an effort by the courts to say that everyone will have an opportunity to read and write and get an absolute equal education. As one goes through the statutes it is just fascinating to look at them. Virginia, as an example in 1838, if a free Black left the state, let me read to you the precise words of the statute, "for the purpose of being educated, he could never come back." What you have is a society with people who created great universities like the University of Virginia who would quote Locke, Hobbs, and Rousseau, and read Shakespeare and Aristotle and Plato, and would make it a crime if a Black person would dare to learn how to read and write. That is the duality and that is the ambiguity in terms of the whole historical process for the things which took place.

Now that is the history which preceded the Brown case. I will look at only two cases, because lawyers particularly always like cites, in the nation, and in West Virginia. The first case is a case called Martin v. West Virginia. The case came down on April 20, 1897. Opinion written by Justice Dent, I believe. Thomas Martin was an odd person, you know. He wanted his children to get an education. And, he complained that in the district he lived in, in Morgan County, district number 4, a place called Cacapon, that his five children could not get an education and therefore, his children should be admitted to the white school. In this case the West Virginia Supreme Court said, "No." I won't take time to go over what was the distorted logic, what they said was, that it would be a violation of the constitution of the state, and in my mind for very, very substantial extent, they misread the constitution of the United States.

It is a sad thing for two reasons. I do not come to you, ladies and gentlemen, talking to you as some arrogant, northern, federal judge, because if you read a case like the Martin case, you will find that the Supreme Court of West Virginia did not rely on cases from Alabama and Mississippi and Louisiana. Those great bastions of liberal thought. They relied on a case like Roberts v. the City of Boston, the 1855 case out of Massachusetts. They relied on cases such as Ward B. Flood of California and State v. McCann from Ohio and Corey v. Carter from Indiana. All of these cases stood for a proposition, that for some reason, Black children could be subjected to that which no other child was, separation on the basis of race.

So let me take you to one other case which came up the same year when Martin was argued and that's Plessy v. Ferguson. Plessy v. Ferguson was one of the great dark moments in American history. The case argued before the United States Supreme Court in 1896. It involved separation on a Trolley car, whether the state could pass a statute to allow such separation. In the process of the argument, counsel for Plessy said to the court, "but if you would permit Blacks to be separated from

whites on Trolley cars, then the state could separate Irishmen from Italians and Catholics from Protestants" and went on to give a whole parade of parables. Mr. Justice Brown responded in effect by saying "of course they could not do that, because that would be unreasonable to separate blondes from redheads, to separate Irishmen from Italians, to separate Protestants from Catholics, but it is reasonable to separate Blacks from whites." That is again a revelation of how the judicial mind went. It went on to say that we can do that to Black people which we cannot do to anyone else, and that is the core of what the Brown case was designed to deal with. It dealt with creating a new and different vision of America, and it had the temerity to say what Blacks have always known--that Blacks are people. As people they too are entitled to be treated like all of the others. My superb research colleagues Stephanie Franklin-Suber, Margaret Stricklin and Willie Jones, have helped me a great deal on trying to understand what happened in West Virginia and at another time, I hope to have an article which looks at your unique experience.

I think that now is the time to close. And what is it that I would like to leave you with? It is a recognition that America has been a cruel society, and it is not individuals who ran around with guns on their hip and hoods over their heads who perpetrated the most cruel aspects of our society. It is not the Ku Klux Klansmen...indiduals who passed constitutional doctrines which sanctioned slavery...individuals who passed statutes which say Blacks can't get educated. What it means is that if individuals who are as philosophical as Jefferson, as brave as George Washington, as eloquent as Patrick Henry, can do a lot for the country but also have some terrible blind spots, that we had better look at every American public official, and ask do they have blind spots. And will the high court of history, ladies and gentlemen, look down upon our generation and feel that in some way we have been as cruel and as insensitive as I submit to you now, where the people permitted a woman to lose her children in exchange for groceries.

Now, in looking over the Brown case, I would like to make a couple of points quite clear. What do I think is the greatest tragedy in the analytical process of Brown? I think that it is a syndrome of over-expectations. I started out by comparing the Brown case as a sapling in the forest or perhaps more accurately, the orchard of opportunity. Some might argue that it was the most important specie in the forest but in pushing this forestry analogy, I would submit to you that it is not the only tree in the forest and one should not expect for it to provide all the timber or all the strength that we need for the foundation of a new social system in which the last vestiges of racism and discrimination are eradicated and by which a greater America is built. The greatest danger we face is that too many people expected too much from the Brown case. Even if the decree had been implemented in the wisest and most efficient and most expeditious fashion, it was never the entire orchard or the forest, though it prohibited state imposed segregation and favored racial integration. Nevertheless, racial integration in itself, all by itself, has never been a panacea to solve all of America's problems. There are many other factors which are equally as crucial, if we seek to improve the quality of life for all Americans. One might ask, what does it profit us if all that we end up with is integrated, inferior education where children don't learn, where teachers are not motivated, where schools are uninspiring, and where pupils are demeaned. One might ask, what does it profit us if all that we will have will be integrated schools, but schools that are not adequately funded. And how great is the result, if we have integrated higher education institutions, but which ultimately become too costly for the poor.

At the same time, no jobs for our children to graduate to and no hope for the elderly to get minimum subsistence living. What does it profit us if we have integrated schools, while all around us plants are closing and our towns are sinking fast by the weight of massive poverty. In the final analysis, we must recognize

that the true forest or orchard of opportunity enclosed the tree of integration, of course, but it also has to be more than mere integration. It means integration plus respect for the pluralism of America, plus respect for ethnic and racial diversity, and the deescalation of hatred and racial polarization. But, above all else, the forest of opportunity means quality education. It means that as exhilarating as it is for a few men to walk in outer space, it is far more critical that every child in our land has the opportunity to get on his or her feet, to become full men and women, able to pursue with dignity the development of their highest potential. Thus, we have to cover a long span in trying to access the Brown case. We have to understand the horrors of the past and remember George Santayano--"that he who does not understand the lessons of history will be doomed to repeat its worst mistakes." We must look at these events, not to denigrate, not to create hatred, but to understand the pathology so that you and I can plant a new forest or a new orchard. And who has described that orchard best? I think it is Langston Hughes. Some years ago he wrote a great poem called "Dream of Freedom." He said:

There's a dream in the land
With its back against the wall
By muddled names and strains
Sometimes the dream is called.
There're those who claim
This dream for theirs alone
A sin for which we know we must atone
Only shared in common like
   sunlight and like air.

The dream will die for lack
   of substance anywhere
The dream knows no frontier or tongue;
The dream no class or race
The dream cannot be kept secure
   in any one locked place.
This dream today embattled
   with its back against the wall.
To save the dream for one
It must be saved for all.

EDUCATIONAL TRENDS AND U. S. COMMITMENTS
SINCE THE BROWN DECISION

Dr. Kenneth Clark

Nearly thirty years ago, on May 17, 1954, the U. S. Supreme Court handed down the historic Brown decision which ruled that racially segregated public schools violated the equal protection clause of the Fourteenth Amendment of the U. S. Constitution. In its unanimous decision written by Chief Justice Earl Warren, the Court stated:

> We conclude that in the field of public education the doctrine of "separate but equal" has no place. Separate educational facilities are inherently unequal.

As one reads this momentous decision, it becomes increasingly clear that it ranks among such great documents in man's struggle for the substance and solidity of democracy as the Magna Carta, the Declaration of Independence, and the Bill of Rights. The simple and eloquent language of the Brown decision articulated once again the promises and ideals of American democracy and stated that these promises and the opportunities for a constructive role in a democratic society must be made available to all without regard to race or color.

As one reads and rereads the Brown decision, one sees that this is not only a strong and positive restatement of the responsibility, indeed the obligation, of a democratic society to protect the rights of all of its citizens, but it is also a total acceptance of the Jeffersonian belief that a solid public education available to all is the essential foundation for a truly functioning democracy. At the same time that it was a powerful constitutional, legal, psychological and human document, it was also a most important statement of the critical, pivoting and integrating role of public education in maintaining the stability of the American democratic system. In this regard the words of the Brown decision are

direct and explicit and could only be diluted by any attempt to paraphrase them:

> Today, education is perhaps the most important function of state and local governments. Compulsory school attendance laws and the great expenditures for education both demonstrate our recognition of the importance of education to our democratic society.... It is the very foundation of good citizenship. Today it is a principal instrument in awakening the child to cultural values, in preparing him for later professional training and in helping him to adjust normally to his environment. In these days, it is doubtful that any child may reasonably be expected to succeed in life if he is denied the opportunity of an education. Such an opportunity, where the state has undertaken to provide it, is a right which must be made available to all on equal terms.

In addressing itself to the specific problem of the effects of racial segregation on the duality of educational opportunity for minority students, the Court was most explicit. Legal purists have criticized the Brown decision for rejecting traditional legal precedents and instead resorting to the "soft" findings of social psychologists in its key assertion concerning the damage which segregated schools inflicts upon minority children:

> To separate them from others of similar age and qualifications solely because of their race generates a feeling of inferiority as to their status in the community that may affect their hearts and minds in a way unlikely ever to be undone.

In developing this human concern with the welfare and future of these children, the Supreme Court quoted the specific educational finding of the Kansas federal court to the effect that

> A sense of inferiority affects the motivation of a child to learn. Segregation with the sanction of the law, therefore, has a tendency to retard the educational and mental development of Negro children and to deprive them of some of the benefits they would receive in a racially integrated school system.

The United States Supreme Court then arrived at the definitive conclusion of the Brown decision:

> We conclude that in the field of public education the doctrine of "separate but equal" has no place. Separate educational facilities are inherently unequal.

* * * * * *

This landmark decision changed the total pattern of race relations in the United States--particularly in the southern states. It removed the power of the state and federal government as a basis of support for racial discrimination and segregation. Its clear assertion of fundamental social, psychological truths and human values cleared the way for the removal of all states laws which required or permitted racial segregation in public accomodations, public transportation and publicly supported recreational facilities. The Brown decision made it possible for Blacks to defy the remaining vestige of flagrant racial cruelties through the non-violent civil disobedience movement so admirably directed by the late Maritn Luther King, Jr. And it made it possible for the executive and legislative branches of the Federal government to become active partners, without apology, in the ongoing struggle for racial justice. Ten years after the Brown decision, the Congress of the United States passed the 1964 Civil Rights Act which sought to prohibit racial discrimination in employment. In 1965 it passed the Voting Rights Act which sought to prohibit racial discrimination in employment. In 1965 it passed the Voting Rights Act which up to the present has significantly increased the population and involvement of all minorities in the political process by removing traditional racial barriers and subterfuges.

Without question the Brown decision and its consequences has helped to solidfy the foundations of American democracy for the benefit of all Americans. The early successes of the Civil Rights Movement in the wake of the Brown decision motivated other groups of Americans such as women, and native Americans, Hispanics

Asians, the gays to seek unqualified justice and the removal of remaining patterns of discrimination directed against them. From this broad and general perspective not only has there been substantial progress in race relations since the Brown decision but also the promise of American democracy has become more substantive for all Americans.

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Ironically, although the specific issue presented to the Supreme Court and which resulted in the Brown decision was concerned with the constitutionality of racially segregated public schools--a specific educational issue--the beneficial consequences were more pronounced, pervasive and observable in other aspects of the society than in the field of public education itself. In attempting to assess the direct effects of the Brown decision on the organization of American educational institutions--public and private elementary, secondary and post-secondary schools and colleges--one is confronted with a pattern of inconsistencies and anomalies:

- Laws requiring or permitting segregated schools no longer exist but de facto segregated schools continue to exist and seem to be proliferating.

- Private schools and academies have increased and have been sponsored by various religious denominations as havens for white students whose parents are seeking to avoid sending their children to desegregated public schools.

- In spite of the above fact, according to the latest available figures, a higher percentage of Black children are attending nonsegregated schools in

southern states than the percentage of Black students attending nonsegregated schools in northern urban communities.

- As a matter of fact, a higher percentage of Black students are attending de facto schools in such northern urban communities as New York, Chicago, Philadelphia, Detroit, and Los Angeles than were attending such racially homogenous schools at the time of the Brown decision.

- A biracial system of higher education persists in those southern states which prior to Brown had laws requiring this system. While traditionally white colleges do not now exclude Black students, publicly supported traditionally Black colleges remain racially homogenous, are unable or unwilling to attract white students, and justify their continued existence on the need to meet the educational inferiority of their Black students who cannot meet the admission standards of the traditionally white schools.

- The most racially desegregated area of American higher education appears to be in the realm of varsity athletics which probably indicates the fact that college administrators and faculties do not hold their desired athletes to the same educational standards that they maintain for other students.

It is clear that the pattern of resistance to any genuine compliance with the letter and spirit of the Brown decision is pervasive and formidable. This is particularly true in those northern cities with a high percentage of ghettoized Blacks. White middle class parents have abandoned the public schools and have enrolled their children in suburban schools or in private and parochial schools. There are indications that this pattern is being followed by more affluent Black families, thereby resulting in the fact that urban public schools have now become predominantly Black and segregated.

Thirty years after the Brown decision the fact of the racial segregation in urban public schools is a mocking educational reality. The subtle and flagrant excuses for the resegregation of American public schools; anti-bussing propaganda, the resurgence of the worship of neighborhood schools which demand segregated schools in the light of residential segregation--all of these erode the democratic foundation of American public education. To the extent that they are succeeding, they are in effect a functional repeal of the historic Brown decision in the specific area of public education.

This is particularly tragic in the light of the fact that racially segregated schools damage human beings and restrict their ability to function constructively within the complexities of a demanding democratic society. And there is no evidence that this is less true in de facto schools than it was when the desegregation was required by law. After the Brown decision Americans who persist in the perpetuation of racially segregated schools and who refuse to accept realistic remedies for the elimination of biracial educational systems cannot say with honesty that they do not know that they are inflicting irreparable damage upon minority children who are being rejected by an educational system which should be seeking to conserve them.

As one who has been a member of the educational establishment all of my adult life--one who chose to contribute his abilities to this most important function of a civilized society, the education of the young--I am embarrassed at this stage of my life to be forced to admit that educators as a whole, with some notable exceptions, have defaulted in helping our society to understand that the defense and maintenance of a segregated educational system is not only inimical to the imperatives of a functioning democracy, but also makes it difficult, if not impossible, to attain the important goals of education.

The purpose of education is to free the human mind of ignorance, superstition, irrational fears and hatreds, tribalisms, parochialisms, and those hostilities which interfere with the ability of human beings to interact constructively with their fellow human beings. A truly educated person must be able to understand the commonality of human experience and aspirations and to relate to and to help his fellow human beings in terms of empathy and such uniquely human values as justice, kindness and social sensitivity. The perpetuation of racial and ethnic prejudices and discrimination counters these educational goals and values. The very fact of racially segregated schools reinforces racial prejudices.

Educators above all others--probably including the clergy--should know that racially segregated schools are concrete symbols of superstition and prejudices. By their existence and certainly by their defense, these segregated institutions contradict and mock attempts to teach democratic and human values. These values cannot be taught by words if the social institutions within which they are being taught deny their validity. Black children who are required to attend racially segregated schools learn quite early in their lives that they are the victims of a democratic sham. They not only question their own value as human beings worthy of respect but they also question the validity of an educational process and the educators who impose this dehumanization upon them. These detrimental consequences

of educational segregation upon minority children must clearly be known by educators. By their silence, educators are accessories to the perpetuation of this damage on powerless human beings.

What is probably not as clearly understood by the general public and by educators is the fact that racially segregated schools and their inherent reinforcement of racial prejudices also severely damage the very white children that the society seeks to protect rather than to reject. While these children may not suffer the same degree of measurable academic retardation which one finds in Black children, a racially segregated educational system imposes upon the white children a severe and debilitating degree of moral and ethical retardation. Unfortunately the eloquent Brown decision did not emphasize this fact. It merely stated the damage to Black children. In the social science appendix to the legal brief which was submitted to the Supreme Court, it was stated that while the effects of segregation on white children are rather more obscure, the complex pattern of nonadaptive personality reactions have been observed. Many of these children are burdened with unrealistic fears and hatreds and are permitted and at times encouraged to direct feelings of hostility toward minorities who are perceived as weak and inferior. As a result of being taught democratic principles and values by parents, teachers and clergy while being taught by these same individuals the need to violate these principles within a school setting which also violates them, these white children become the victims of moral confusion, conflict and moral cynicism. Some of these children seek to resolve these conflicts by personal guilt feelings, or by asserting the rationalizations and stereotypes of the larger society and by intensifying the hostility toward minorities. In seeking to upgrade the quality of education for Black children it has been stated that "the mind is a terrible thing to waste." This is true; but it is equally true that in our concern for the future welfare of white children, we

must understand that the soul or the functioning conscience of a people is also a "tragic thing to waste."

Whatever the particular pattern of adjusting to these inescapable conflicts inherent in the existence of racially segregated schools in American democracy, these children are not being educated to cope effectively in a contemporary and future world. Two-thirds of the people of the world are non-white. In order to be able to interact with these diverse peoples, American students cannot be burdened with nonadaptive stereotypes, unrealistic hostilities and social awkwardness. The diversity of the American population, the existence of Black, brown, and white students in our schools, is a most valuable asset in the education and preparation of American children for a most positive role in international communication and interaction. This valuable human educational resource will be wasted in the anachronism of racially segregated American schools.

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Given this perspective, what then is the responsibility, indeed, the obligation of American educators at this period of American history, thirty years after the Brown decision and in the midst of the technological and nuclear age? How can educators now compensate for their past silence and default in trying to help the American public and public officials understand that it is now an educational imperative that the vestiges of the anachronism of a biracial educational system must be eliminated?

American educators and their associations must have the courage, clarity and the profound understanding to say to the American people that racially segregated schools seriously impair the ability to attain the goals of a democratic education. As the chief custodians of this most important social function of preparing our young people for a constructive, creative and humane role in a world of the future, educators must assume the risks of insisting repeatedly that a civilization

based upon justice cannot be communicated to the young in an educational system which by its organization reinforces rejection and hostility. Educators cannot follow the tyranny of the masses. By definition and by choice of this profession, educators must be moral leaders. Up to the present, leadership in racial progress in America has been left to the courts and the legal profession, and some public officials. They have gone almost as far as they can go in articulating the requirements of social justice in the United States. It is now up to those of us who claim the responsibility for educational leadership to insist that in the realm of education there must be unquestioned justice, equality and humanity.

Specifically, we must now insist that in the training of teachers and supervisors, the Brown decision must be required reading. Every teacher training institution and educational association should plan and conduct periodic seminars on the substance and meaning of the Brown decision. Examination for teachers and promotion of supervisors should be based upon their understanding of the letter and spirit of this important democratic document.

Educators should insist that not only should schools be desegregated, but that this desegregation should only be the first step toward an integrated educational experience for all students. Students of diverse backgrounds should be permitted to learn from each other, to cooperate with each other and to develop a sense of their common anxieties, hopes and aspirations.

Educators should insist that the isolation of students in terms of race, economic status or intellectual potentialities in an allegedly desegregated school is intolerable, cruel and interferes with the practical and humane goal of education.

Educators must point out unequivocally that in seeking to conserve the awesome, delicate and fragile system of life which is the human being in its formative

stages, our educational system and our educational personnel must accept, respect, and encourage each child place in our charge. This is an awesome responsibility for future peace, justice, tranquility and a dynamic civilization.

* * * * * *

THE IMPACT OF THE BROWN DECISION ON HIGHER EDUCATION

Dr. G. Gordon Gee
President, West Virginia University

Thank you very much--I just managed to make a stunning entry by spilling water all over my speech. Tom, I appreciate very much that introduction and I must say that, that reminds me of an opportunity, while someone cleans up this thing, to tell a little story that I love to tell sometimes. The introduction was very warm indeed and Tom and I have been in our positions almost the same time and I want you to know that I think that he is doing a magnificent job, not only for West Virginia State College but certainly for West Virginia, and his brand of leadership is one that we can all emulate.

As president of the University, though, I often have an opportunity to be introduced and very often these introductions go on at length. Fortunately his was short and so, therefore I can tell this story because I am not telling it on him. But there was a man by the name of Chauncey Depew who served as senator from New York many years ago, around the turn of the century. Chauncey Depew was a very able lawyer, a great advocate and a great orator. After leaving the Senate, he made his living by going around the country and speaking. One of the favorite things he did was to introduce other people. He would love to go and give rather substantial introductions of other people. He reached that ultimate in his career, he felt, when he was given an opportunity to introduce William Howard Taft. Now, Dr. Wallace, I hope he doesn't mean anything to you, but William Howard Taft was governor of Ohio, then was Governor General of the Phillipines and then was elected President of the United States. He reached that ultimate in his career when he was appointed Chief Justice of the United States. The only man in the history of our country to serve as both the chief executive officer of our nation and the

chief judicial officer. He had always wanted to be the chief justice and, frankly, was not very happy as president anyway. When he came to this small community, Chauncey Depew was asked to introduce him. Chauncey Depew got up and spent 45 minutes introducing him and the introduction went on and on and on. The audience started to yawn. They couldn't quite believe that this was taking place but finally he finished the introduction. One of the things you have to know about William Howard Taft is that not only was William Howard Taft a great American, he was a large American. He weighed well over 300 pounds, he was a huge man and so at the end of this introduction, Chauncey Depew turned to him and said, "Ladies and gentlemen, I want to present to you the Chief Justice of the United States, a man pregnant with ideas, a man pregnant with creativity." He sits down and William Howard Taft waddles to the podium and his stomach sort of falls over it, he pats it a little bit and he said, "Well, ladies and gentlemen, if it be a girl I'll name her Kathleen, if it be a boy I'll name him William but if as I suspect, it be gas I'll name it Chauncey Depew." They now have it cleaned up Tom, so I can get along with my speech, can't I?

I would like to note how pleased I am to see students in the audience. We have some 22,000 students on our campus and Tom, they are a pleasure every day. I love to collect graffiti on my campus and right down below where we live, are the residence houses for our freshmen. We have some 2,200 freshmen that live in residence houses right behind us. It's great fun living next to 2,200 freshmen, let me assure you. Anyway, the other day I am driving down the road and we have a small program for gifted students, young gifted students, 3, 4, and 5 years old. Anyway, they have this sign up there that says "slow children" and below it one of our clever freshmen put up one of these cardboard signs that says "grow up to work for the post office." Well, I thought I would just share that with you.

Today, I might note, Tom, that we are going to be talking about Brown v. the Board of Education. Before I make my presentation, just a little personal note. Chief Justice Earl Warren, who wrote the decision, was an interesting man. I happened to have an opportunity to meet him when I was working for Chief Justice Warren Berger. He was still alive at the time and had an office in the Supreme Court and one evening very very late, I went down into the basement of the Court where the cafeteria was and I walked in and here was this white-haired gentleman sitting there all by himself around 10:30 in the evening. I looked at him and it was indeed Earl Warren, a man that one admires. In fact, he was one of my heroes and here is an opportunity for a young guy working at the Supreme Court to speak with him, and I walked over and just introduced myself and he said sit down. We happened to carry on a conversation of some 2 hours of which I recorded in my journal in a variety of very interesting things. Of course, Earl Warren was appointed, Tom, by Dwight D. Eisenhower. Later, Eisenhower said that the greatest mistake he ever made was to appoint Earl Warren as Chief Justice. He was appointed because Eisenhower (a) felt he was a conservative and (b) because he felt that he would deal with the Brown decision, which was pending at that time, in precisely the opposite way from which he dealt with it and so it shows what can happen when one puts on those judicial robes. Anyway, I asked him, I said, "Mr. Chief Justice, have you enjoyed your tenure at the Court?" He said yes, he really did. But, I happen to know who his chauffeur and the bodyguard was. I had met him at the Court and the bodyguard would tell me they would get in the old court Lincoln and drive to New York where no one could recognize the Chief Justice and they would go to Yankee baseball games. During this course of conversation, I said, "Well, I understand you enjoy baseball." And, he was a great baseball fan. He said, "You know, the greatest disappointment in my life was that I was appointed Chief Justice of the United States and not appointed the commissioner of baseball." And I remember that

so well. I thought that kind of an interesting vignette, in light of the Brown decision that we are dealing with today, would be something that might be of interest to those of you in the audience.

The purpose of my remarks today, is, of course, to discuss the impact of Brown v. the Board of Education and that impact of what it is and how it continues to have an impact on my own particular institution, that being West Virginia University. I am speaking to you today, ladies and gentlemen, from three perspectives; one as a lawyer who can't resist discussing some of the legal significance of Brown v. the Board of Education, certainly as a university president and as one who has been involved in higher education for over 10 years, who sees the impact this decision has on the administration of a public institution, and finally as a person who is deeply committed to the principles of equality in all aspects of our human existence. First, some historical background on the state of higher education, generally and certainly at West Virginia University before the Brown decision. As everyone is well aware, before Brown, the separate but equal doctrine of Plessy v. Ferguson prevailed. Simply put, this meant the races could be segregated as long as the facilities provided for each race were equal. In many respects the separate but equal doctrine in the educational context was but a fiction because while each race may have had its own facility, the quality of education offered at the facility reserved for Blacks was very often, indeed most times, substandard. Significant inroads into the separate but equal fiction were made by the Supreme Court in the field of higher education, even before the Brown v. the Board of Education. Beginning in 1938, the separate but equal standard was more closely scrutinized by the court in several cases in which the adequacy of the graduate or professional degree programs provided for Blacks was challenged. The more careful scrutiny sometimes had tragic results as is illustrated by the effects of the court's decision in Gaines v. Canada, a

case in 1938. At issue in Gaines was a Missouri statute which allowed the state to pay the tuition of Black graduate students at institutions in adjacent states before Missouri did have its own graduate institutions for Blacks. The court determined that Gaines had a right to a substantially equal legal education within the state borders and ordered Missouri to accommodate him. In response to this decision, the Missouri Legislature appropriated $200,000 to establish a special law school for Gaines. Gaines then challenged the adequacy of these ad hoc arrangements, but before a court mandated hearing on this issue could be held, Gaines disappeared and has never been heard from again. Thus, after the Gaines decision, states were required to provide separate institutions for Blacks within their borders in order to comply with the separate but euual standards. Following the mandate of the Supreme Court decision in Gaines, West Virginia University adopted a policy of admitting Black students to its graduate and professional schools because advanced educational programs were not available at the then strictly Black West Virginia State College or Bluefield State College. The separate but equal doctrine in higher education was defined even further in two 1950's Supreme Court cases in which the court for the first time took a close look at what "equal" meant in the context of graduate and professional education. In the first case, Sweatt v. Painter, the Supreme Court found that the petitioner, who was denied admission to the all-white University of Texas Law School, had been deprived of his right to equal education because the University of Texas Law School was superior to the all-Black Texas State University. For the first time, the Supreme Court recognized that a certain institution may possess, and this is their direct quote, "those qualities which are incapable of objective management but which make for greatness." Accordingly, the University of Texas Law School is required to open its admissions to all persons regardless of race. In the companion case of McLaurin v. Oklahoma State Regents, the court was asked

to probe even deeper into the meaning of equal education. In McLaurin, a Black student who was admitted to the graduate school of education was required to sit at a specially designated desk adjoining the classroom, to sit at a specified desk on the library mezzanine and to sit at a special table and eat at a different time from other students in the school cafeteria. He sued to force the University to lift these conditions. The Supreme Court granted him the relief he requested, finding that the conditions which had been imposed on him impaired his right to have an equal education, which included the opportunity to study with his fellow students, again his right.

As the result of these two cases, the equality component of the separate but equal doctrine for the first time began to have more substance and the stage was set for the famous Brown v. Board of Education decision of which we are speaking today. Clearly some progress has been made in the field of higher education, however, prior to the Brown decision undergraduate educational opportunities at West Virginia University were available only to white students because both the West Virginia Constitution and a statute prohibited the mixing of races in public schools. The affirmative duty to integrate was not established until the Brown decision in 1954 by Chief Justice Earl Warren. The Brown decision which was handed down on May 17, 1954 spawned an almost immediate response at West Virginia University. On May 21, four days later, Dr. Ervin Stewart, the president of West Virginia University, wrote to the attorney general of West Virginia asking for an opinion on whether West Virginia University should admit in-state and out-of-state Black students to the undergraduate programs at the University. Because the Brown decision arose from cases which involved only elementary and secondary schools--not colleges and universities--there was some initial doubt in a variety of corners, about whether the Brown decision would apply to public colleges and universities.

The state attorney general soon put these doubts to rest and ruled that the tenor of the Brown decision indicated that it applies with equal force to state educational institutions of higher learning. After receiving the attorney general's opinion, President Stewart reported to the president of the board of governors that he was putting the ruling into effect immediately for the summer session. According to the historical accounts, West Virginia University became integrated promptly and unlike so many southern schools that surrounded it, this integration was without incident and public furor. The mandate of Brown v. the Board of Education was clear on segregation in public education. Implementation of this mandate, as we all know, was very difficult. The courts were initially quite lenient in permitting the states flexibility in the development of their own methods to achieve integration. Some southern states actively resisted attempts to achieve integration. Three years after the Brown decision, 52 percent of the formerly all-white colleges in the south had token desegregation. Some public colleges and universities in Florida, Georgia, and Mississippi and South Carolina remained closed to Black students. Many of us in this room can recall that terrifying violence which erupted in parts of the South as Black students asserted their constitutionally guaranteed right to a higher education in an integrated institution. This violence, as costly and tragic as it was, did bring some positive results. The first result was that the Supreme Court began to signal that the patience that it had exhibited for nearly 10 years, in allowing states to implement Brown v. Board of Education with all deliberate speed, was exhausted. In one case the court asserted that the time for deliberate speed had run out. The court's impatience was again displayed a year later when it made it clear that the delays in desegregating school systems are no longer tolerable, thus all public institutions were constitutionally required to take affirmative steps to integrate immediately. Also, around this time, the Civil Rights Act of

1964 was enacted. This comprehensive legislation, passed after the assassination of President Kennedy, had and continues to have an enormous impact on both higher education generally and West Virginia University specifically. Basically, Title Six of the Civil Rights Act prohibits discrimination in any program which receives federal funds. As a land grant institution, West Virginia University receives significant federal funding and is therefore subject to Title Six non-discrimination requirements. In addition to the Title Six statutory requirement as an institution which in the past had de jure segregation, West Virginia University also falls under the Adams states court order of which Dr. Cole spoke. The Adams state litigation began in 1970 as a lawsuit against the Department of Health, Education and Welfare (HEW) in which the plaintiffs, Black students and their families, claim that the HEW officials had defaulted in the administration of their Title Six duty to enforce desegregation. Specifically the students claim that HEW officials had failed to institute enforcement proceedings against states which had not submitted adequate desegregations plans, yet, which continued to receive federal funding. This litigation which has been long and complicated has resulted in a court order under which the public institutions of several states including West Virginia University must submit their desegregation plans to the Department of Education's Office of Civil Rights. Under the Adams court order, we submit a Title Six annual progress report, which sets forth our continuing committment to offering quality education to all students regardless of race, color, national origin, sex or ethnic background. Our plan emphasizes our commitment to pledge our best efforts and to recruit and retain Black students, faculty and staff and to overcome any vestiges of segregation. Our plan states our long term goals and the methods we will use to meet these goals. Last year in our effort to recruit minority students from West Virginia for our undergraduate program, we made approximately 39 visits or

presentations around the state. Some of these presentations were to large civic or church groups and some were family interviews. We also made approximately 89 visits or presentations of a similar nature to recruit out-of-state applicants. On campus, West Virginia University sponsored a minority introduction to engineering seminar and a health science seminar for minority and middle school students. In addition to these formal activities, deans and vice-presidents and various advisory groups have been and are making concerted efforts to informally contact minority students to encourage their attendance at the University. On the graduate and professional school level we have made similar efforts to recruit qualified minority students, notably, at the law school. A minority scholarship fund has been established and a task force to examine minority recruitment and retention problems has been appointed. At the Medical Center, there are plans for a summer enrichment program for minority students. Unfortunately, we have been hampered in our recruitment efforts to a certain extent because of the financial incentives that are offered by other neighboring institutions. These incentives have the effect of luring away some of the minority students who are otherwise interested in the University. We have also directed significant efforts to the retention of our minority students. We recognize that the increasing cost of education makes it even more difficult for those who have been historically economically disadvantaged, to meet their educational goals. So, last year, 97.1 percent of the Black students at West Virginia University who sought financial aid received it. We also recognize our responsibility to assist those students who find the transition into university life difficult, both academically as well as socially. Last year a models program was established to assist students in their transition. The models program relies on upper classmen in good academic standing to help freshmen maintain a good average and get involved in campus life. The mentor program asks older students who are associated with the university to agree to serve as mentors to two new students. Our Office of

Minority Student Affairs and the Black Unity Organization have worked together to organize certain campus activities for the Black students. Last year these activities included the Black Unity Organization sponsorship of a homecoming court, a newsletter, Black History Month and Black Awareness Week. This year we were extremely fortunate to host the Booker T. Washington exhibit which was a tremendous honor and opportunity for all of us on campus to share in an important part of our history and the history of this state.

I have not yet spoken to you today about our efforts in the area of faculty and staff recruitment and retention because of the time constraints. Be assured that just as we have devoted substantial efforts toward living up to our commitment to end the vestiges of segregation of students, we have also made determined efforts to recruit and retain faculty and staff. We have not been successful in the recruitment or retention of faculty and staff as we hope to be in this area for two primary reasons. Our institution has not been able to offer competitive salaries and Morgantown is still a relatively small rural community with few minority families and therefore, not perceived as being an especially attractive place in which to relocate. However, we have an affirmative action plan, which has been accepted by the United States Department of Labor and we will remain committed to it. We have also not been entirely successful in all our efforts to recruit and retain minority students. Not all of our goals have been met. We remain a predominantly white institution. But instead of being discouraged by our failures, we are redoubling our efforts. We will remain steadfast in our effort to recruit and retain not only minority students but faculty and staff who are representatives of the minorities which were so long effectively excluded.

I do not view our duty in this area to be merely a legal one. It is more than that. I view our duty at West Virginia University as a moral duty, one apart from the mandate of Title Six, one not clearly required by Brown v. the

Board of Education but one which is motivated by the spirit of Brown. Our duty is one which is true to the words of Chief Justice Warren in Brown when he said, and I quote, "Today education is perhaps the most important function of state and local governments. Compulsory school attendance laws and the great expenditures for education both demonstrate our recognition of the importance of education to our democratic society. It is required in our performance of our most basic public responsibility, even service in the armed forces. It is the very foundation of good citizenship today; it is the principle instrument in the awakening of the child to cultural values and preparing him for later professional training and in helping him to adjust normally to his environment. In these days it is doubtful that any child may reasonably be expected to succeed in life if he is denied the opportunity of an education. Such an opportunity where the state has undertaken to provide it, is a right which must be made available to all on equal terms."

We have so much to gain as people, as an institution when we encourage and seek to promote diversity. To borrow from the title of a chapter in a book by Lawrence Marcus and Benjamin Stickney, entitled Race and Education, the Unending Controversy, the Brown decision was the second Declaration of Independence. Its impact on higher education has been no less significant than that of the first Declaration of Independence on the colonists. For just as the former colonists were set free to chart their destiny, so were millions of formerly enslaved young Blacks set free by Brown from the shackles of segregation. They too were finally permitted and eventually encouraged to pursue the ultimate freedom--the freedom to obtain a quality education. Thank you very much.

WISDOM AND COURAGE CAN OFTEN PREVENT HORRIBLE CONSEQUENCES

Lawrence D. Reddick
Distinguished Scholar in Residence,
Dillard University

Some of you may remember E. Franklin Frazier. He was my teacher some years ago. He was filled with humor and sophistication. For a while he was a specialist on race relations for the School of Social Work in Atlanta.

From time to time he would be invited by some small town in the Deep South to come and make an analysis on how to improve Black and white people getting along with each other.

Frazier would accept such invitations only if the written agreement for his lecture would include the arrangement that nobody in the meeting would leave the room, for 15 minutes, after he had made his speech and departed. This would give him time to get into his automobile and get out of town before any listener, who might have been upset by Frazier's remarks, could stop him.

I have a feeling that if I am to speak frankly today, maybe I, too, should have a 15-minute headstart to jump into a waiting taxi and speed off to the airport. But if you declare that you believe in non-violence, I will stay around for another day to answer your questions or debate alternatives.

What I will tell you is briefly what I observed and experienced on visits to three college campuses: one in Missouri, another in West Virginia, and a third in Mississippi. My thesis is that Wisdom and Courage can often prevent horrible consequences, and that the absence of such an endeavor may result in destruction.

LINCOLN

First, I wanted a good look into a predominately Black college, not one in the Deep South, but one that was almost "up North" and that was outstanding in

scholarship. My initial stop was Lincoln University in Jefferson City, Missouri. I arrived at the campus about lunchtime and as I looked around I saw so many white persons that I asked if some nearby other college was visiting Lincoln that day. No, I was informed, that "our Black student population here, these days is about 15%." "Only 15%," I repeated.

I could have fainted. The Lincoln that I had known through the years was an outstanding Liberal Arts institution that was often called a "Black Harvard." Its faculty was composed of scholars such as Lorenzo Greene, Oliver Cox, Bit McGraw and W. Sherman Savage, who had written the history of Lincoln when it was famous. In my days as a student at Fisk, I was on several teams that debated Lincoln. We seldom won.

What happened, I asked myself. The answer came back, "You know, since May 17, 1954, we have had an influx of light-skinned people." I smiled and asked "and did the University of Missouri that has always had a great majority of white students, did it, after the famous decision of the U. S. Supreme Court generate an influx of Black students there to keep the colors balanced?" Everybody laughed then. Finally, somebody said, "Only a few Black tokens."

And so I spent several days at Lincoln University. I consulted with everyone, including the college President, faculty members, new as well as old timers and students; Blacks and a few whites who would linger for only a few moments, and campus workers. The overwhelming influx was not of students who wanted to obtain a liberal arts education; rather they were mostly young and not so young white women, often with families, who wanted to qualify for jobs of sorts, relative to nursing, food preparation, data processing and merchandising. Their interest was strictly vocational--jobs and promotions.

They usually lived in the town or in a nearby county. They would drive to the campus each morning for their classes. If they should have afternoon assignments, they would bring along a sandwich in a paper bag, out of which they would

munch their lunches, sitting in their automobiles. They were almost always smiling as they moved about the campus. After classes were over, they hurried home. They seldom remained or came back for evening affairs--dramas, musicals, and exhibits. Clearly, their contact with the college was largely economic. They seldom "socialized" as we used to call it.

The Black students were largely irritated by this touch-and-go daily inflow and exflow. They felt helpless. They could get little suggestion or guidance from faculty or administration; but they could see these newcomers swarm in and then swarm out, after they got what they wanted.

The administration was almost completely silent, insisting, "We must obey the law; the courts." At times an old-timer would speak out strongly; soon afterwards, he would be notified that nobody was insisting that he remain with Lincoln...there were many other jobs and colleges.

But now and then something would happen that came near setting fire. Lincoln had been originated by Black Civil Warriors who had fought with the Yankees. After the war was over, the soldiers "chipped in" their paychecks in order to get a school for themselves and their families. In honor of this, an impressive tower was erected at the campus entry. But one morning, the campus awakened to discover that the tower had been dismembered and "torn down." The campus males were ready to "beat the hell out of whoever was responsible." The finger pointed to white workers on campus. They replied that it was all a misunderstanding. Reluctantly, the Blacks accepted this explanation. The "authorities" promised that the tower would be restored. But it was never rebuilt. Students confessed that this was the turning point--where manhood was tested and apparently sacrificed. More than one person said that the present faculty, students and members of the overseers would not resist the absorption of Lincoln University.

Not only was there a decline in the teaching but also in the ability to gather supporters. Somebody said that manhood seemed to be seeping away.

Newcomers, filled with ambition and energy, were taking over and were handling the money and pushing forward new techniques in management. The authorities were good enough to let me read recent official reports. I came to the conclusion that two white women were pushing forward for a new command of the economic machinery of the whole institution.

POWER SHIFT?

Any passing visitor could see that Lincoln University looked different from what it once was...the white faces, crowded parking lots...small liberal arts classes but overflowing nurse training and business classes. But behind and underneath these surface changes, was anything really happening? More specifically, beyond the formality of regular faculty meetings, who actually was calling the "shots?" Was anybody "taking over," directly or indirectly?

The most revealing answer to such questions perhaps was provided in the University report for the year 1979-80. This 64-page document told us much more than the simple external facts on each sector of the institution. This comprehensive report was prepared by the university's Office of Planning and Analysis. This was essentially a data processing service which normally would be expected to quantify factual statements and plans of the functioning units of the college. But this office apparently had greater ideas, stating that this "activity is intended to improve both the transactional procedures that generate data and the processing and communication of data information, especially as that information would strengthen Lincoln's planning, management, and evaluation capability." This latter function, of course, is a considerable expansion beyond record keeping.

Even this step was not all, for the next paragraph of the report extended the scope to "improve planning and decision making at Lincoln, and the Office of Planning and Analysis/PME activity has been implemented.

One Black staff member who had given her academic life for Lincoln, decided that she would give up her position. Her pain was so great that she could not bear it any longer. One of her colleagues was comparatively optimistic. "Maybe," he said, "the white and Black curators at the University of Missouri and Lincoln today are to see that every right and privilege that white students enjoy at the University of Missouri would be fully available to our students and faculty and administration on both campuses; but nobody seemed to have a concrete plan to bring it about." Tears could not be restrained.

More recently, the President of the college has resigned and accepted a post with a high level regional athletic organization in the Southeast.

Lincoln University, once a symbol of the best in higher education of Black Americans is actually, "no more;" but the University of Missouri is still a "white fortress."

WEST VIRGINIA STATE

On my way to West Virginia, I remembered that as a youngster, I liked the western part of old Virginia when the people there decided not to join the Confederacy. And when the Civil War was over, there was a new state in the nation--West Virginia. Its people were less of the aristocracy, more of the "common man" type. They were slow but they got around to sharing with Blacks the right to vote and to an education.

On March 17, 1891, the West Virginia legislature authorized a West Virginia Colored Institute. From that it grew and in the old catalogs the story of a steady progress was related. But in 1919, a "wonderful" man came upon the scene who was a combination of "brains plus heart." This was John W. Davis. He was very much of whatever the institution became up to 1953.

Davis was a "Morehouse Man." He saw the need and the possibility of converting the local institute into a national institution. For example, he gathered

a faculty that included such scholars and creative thinkers, speakers, and writers as Dr. Carter G. Woodson, David A. Lane, Thomas E. Posey, Herman C. Canady, Harry W. Greene and Dr. Naomi Garrett and many others, including Professor John C. Harlan, who wrote the History of West Virginia (very valuable, please let me add). These dedicated scholars and creators had produced as early as 1939 some 36 books and more than a hundred articles and bulletins. The students of these instructors responded to the highest academic standards and were articulate on racial and world problems. As early as 1927 the college was fully accredited.

Hon. H. N. Bradley, President of the State of Board of Control was candid enough to state in writing that "The West Virginia State College is to the Negro people of West Virginia just what West Virginia University is to the white people...No state possibly in the Union has approached this in such a fair, just and righteous manner as our beloved state..."

Horace Mann Bond candidly put it this way: "West Virginia State College is certainly the first of our state supported colleges and perhaps the first of any of our colleges to establish progressive movements which have had a profound influence on the higher education of Negroes in this country...revitalizing the intellectual and cultural life of West Virginia. Its influence has extended far beyond the borders of West Virginia." Everybody wanted to come and see the wondrous W. V. S. College, including Mrs. Eleanor Roosevelt, Mrs. Mary McCleod Bethune and Henry Ford.

The college had the aid and protection of a Black Advisory to the Board of Education, that then had considerable clout. And would you believe it, from 29 states, students who would have to pay because they were not residents of West Virginia, begged and came and paid extra to become a student at West Virginia State College.

President John W. Davis demonstrated his rapport with his students when he let them initiate him into their so called fraternity. His appreciation of

their comradery was so gentle that the silver dollar that they presented to him at his initiation, he kept in his pocket everyday of the rest of his life.

This college was about as near to academic heaven as one could get. Truly, as the college sang: "Dear old West Virginia...we love you so..." Only at Fisk and Morehouse could singing be so moving. This indeed was a creative and intellectual "heaven." But alas, as in many dramas, something had to come along to spoil everything. That something was the May 17, 1954 decision of the U. S. Supreme Court that the forcible separation of students by race anywhere in the nation was contrary to the Constitution of the United States of America. Apparently, this was a giant stride toward equality. But the way this ruling was <u>implemented</u> and <u>distorted</u> was something very different from the intent of the Court.

In some places, there was massive resistance. The Chief Justice was condemned and publicly ridiculed. For a while, it looked as though we might have another secession from the United States of America, one more attempt to establish a Confederacy. But some newspapers took a more clever approach, proposing "Integration in Reverse" or "Desegregation in Reverse." Some of the radio and TV stations threw in their support. This entertaining approach would not often add Black students to previously all-white schools; rather, white students would be added to previously Black schools. Would not this flatter the Black institutions? Moreover, no Black schools would be closed down.

Apparently, the West Virginia Board of Control was delighted with this idea. Immediately, somebody went to work searching for more <u>white</u> teachers. Some of the newcomers were part-timers; others had no background or education in Black Studies, but the money was attractive. There was also emerging a different balance of power.

The next move was to rewrite the college catalog. White faces began to outnumber Black faces. The following was typical of photograph imbalance:

CATALOG PHOTOS

1. Under the caption "How to Enroll" there were more whites than Blacks.

2. A "shot" of the assembly gives a closeup on the whites.

3. White students at the tables in the cafeteria; a few Blacks in the background.

4. Attractive young white woman, with modern hair style, looks quietly through a window to a tranquil campus scene.

5. A white student and a white professor examine a picture.

6. An elderly, light-skinned Black teacher or artist points out a picture to nine students; two or three of them seem to be Black.

7. Two students, one white, the other Black, look at an electric machine.

8. A Black teacher draws the attention of Black and white students to a blackboard.

9. A dormitory scene in which two whites and two Black students smile and chat.

10. A lone Black student is in a lab of some sort.

11. The college President smiles as a trophy is shown to him by five co-eds, three of whom are white.

As if the photos and general invitations were not enough, the course offerings were retailored for the newcomers. The Black emphasis courses were at first dropped; but in a later catalog, somewhat restored; but were over-balanced by courses dealing with the history and culture of Appalachia and other minorities in America and the world; and also a special offering on West Virginia's history, geography, and government.

All along, the state powers cultivated the myth that the coming of white students to the college was spontaneous; thus concealing the campaign to attract and bring them in...The telephone answering secretaries in the college offices were firmly instructed to be encouraging whenever someone called and asked, "I happen to be white...Is it alright for me to come to your school and enroll?"

The headline of the move was "WVSC FUTURE OUTLINED." It was published in the Stinger, a newsletter for "alumni and friends," that the college would continue to offer "liberal arts" but that it was pushing forward as a multi-purpose institution. The Kanawha Valley was described as a major center of the chemical industry and that Charleston was the primary city in the state for "these factors define the immediate community that the college should and does serve." Moreover, "the college has an obligation to evolve a curriculum that promises maximum success for the kinds of students it serves." Apparently, nobody was listening...

FINAL TAKE

No doubt the ultimate loss to the Black students, community and alumni was the conversion of the curriculum of the college from what it had been historically. It was bad enough to outnumber Blacks with whites, but the final "take" was to discard what the college Blacks had come to study for their life careers. The undoing of the liberal arts education was to satisfy urban economics and technology. This meant the production of clerks, salesmen, accountants, money managers, insurance and marketing experts, elementary chemists, secretaries, textiles fashion designers, hotel/motel operators; and nurseries to take care of children while their parents were at work. And finally, such trained protectives as police, security and correctional officers. These became increasingly the objectives of developing an industrial and commercial world that centered about the state's capital city of Charleston.

Of course, a separate training institution could have been created. But it would have cost about $10 billion. Why spend all that money when the Blacks had the physical plant that could be quietly taken from them and converted to more urgent needs of the majority? This coincided with the expressed wishes of many of the whites who lived in the Kanawha Valley. A considerable number enrolled in

late afternoon and early evening classes in order to retain or get themselves a job in the Charleston area.

Thus year by year the catalogs had been disclosing that the college was increasingly vocational. It's day of service was done. History had been twisted when the catalog said that since 1954, the college has attracted a racially and culturally diverse student body. The simple fact was that Black students had faded to only 10 percent of the whole. They could join the whites as handy helpers. Otherwise, nobody was deeply concerned as to their future.

I could read the four paragraphs that were in the bulletin, but to save time, I would only say that it emphasized that the Community College Component was the main concern of the university. About 4,000 students were studying at the college in both day and night programs. It did not add that only a fraction of these were Blacks.

I think my time is almost up and if in terms of responding to your questions I may get a chance to say why I believe this could have been averted. So I'll leave it at that at this moment.

A precious few of them would be given minor posts in business and industry; but the main work force and <u>all</u> of the managers would be capable whites.

The 1981 catalog of the college was frank. Under the introductory caption "Mission," the honest statement was made that the Community College Component had become the <u>center piece</u> of the institution. The four paragraphs that followed were crystal clear.

The Impact of Brown v. the Board of Education of Topeka, Kansas on West Virginia State College

William J. L. Wallace, President Emeritus
West Virginia State College

Does anyone have a valium? Perhaps two would be better. I don't feel a bit like being very polite this morning, at this time. I've never listened to such poor scholarship in all my life. I don't know who that person was, who was employed by the Board of Control, to solicit the presence and attendance of students, white students on this campus. There is no one, and I assure you no one, that was appointed to this staff that I did not recommend. I was the president of this college. The Board of Education, the Board of Regents, the Governor nor anyone else was the President of West Virginia State College when I was here, and I take the sole responsibility for everything that was done in this institution from December 1, 1952 to June 30, 1973.

But I'm very pleased to be here to participate on this program. I've related the ties with the College. I also have a very thrilling experience and ties with the Mountain State Bar Association, not directly, but with the West Virginia State Bar Association. I'm one of three non-lawyers who are members of the Legal Ethics Committee of the West Virginia State Bar. I represent Central West Virginia. I'm in my second term, second three year term of membership on that committee. So I know something about the negative aspects of the profession of law, but it has been my great privilege to work with some of the great lawyers in this state. It has been a learning experience. And not only there, but in all of the other activities that I've engaged in over the years.

I was not only president of West Virginia State College, but I was one of those persons that sought to become not only integrated here, but in all the activities of this state. I've been on parks and recreation and design programs for

recreation in our parks. I've been on the Welfare Advisory Board to the welfare association, the welfare department. I was appointed one of the representatives for West Virginia on the Education Commission of the States, which was a national organization. I served in the highest position on that that a non-governor could. I was vice-president of that association, and received a medal of awards for my contributions there. I've served with the Charleston Symphony Orchestra as president of that board and a member of it for a long time. I've served with senior citizens. At the present time, I am the chair of the Kanawha County Library Association. On that committee is the president of the West Virginia Bar Association, Attorney Kaufelt. And I have working with me on that committee, because it's always been my effort and attempt to bring Blacks, other Blacks, upon these committees. Dr. Shirley Hairston is an active member of the Library Board. It took a little time for us to get a second Black member on a board of eighteen, and now perhaps we're working on, say an additional member. One of the top salaried persons on the library staff is Black; she and I have to work some--we have to respond to arguments from time to time about that, there are still some, you know, little feelings about some of these things, but she is very competent.

And I say all that to say that while I'm not a sociologist or psychologist, I know how things are operated in this country of ours, and one of the things I want to emphasize this morning is that, if we are going to make progress in equal opportunity, for all people, in this country, we've got to get together, and know one another. I know we have all of these rules and regulations about appointments, but ladies and gentlemen, in America, friendship and knowledge of people still count as an important factor in getting access to the power controls in this country. You've got to know people. Blacks have got to know whites. And one of the strong points of this institution is that it affords an opportunity for

young Blacks and older ones, too, to get to know white people, and white people to know Black people. I believe that, and all who don't, and who bemoan with crocodile tears yesterday, read James Dent's column this morning, in The Charleston Gazette. He talks about the critics of the nice clean streets in Williamsburg, which is a replica of the olden days and some critics say it isn't vintage. You don't have any pigs running around, you don't have any privies. You see, you don't have any other animals and the smells, the sounds and the smells and there was another term there, oh yes, and the sights of Old Williamsburg, yeah. Well, he says, who wants that except these pure critics?

Who wants to go back to the days of segregation? I don't. I have had more disappointments, more obstacles put in my way, more denials. My father and my brother and myself narrowly escaped death in the East St. Louis riot of 1917. We had to flee like mad from downtown. The printing shop which he had built up to go on a new adventure to establish the Western Star of Zion for our church was destroyed with all of its equipment. And after that riot not a single white person was ever put on trial, all Blacks. And Dr. Leroy Bundy, a dentist, an undertaker, a car salesman was convicted and sentenced to death three times for attempting to get ammunition using the hearses that he had to take ammunition from St. Louis over to East St. Louis, you see, to protect Black people who were being murdered and their homes being destroyed, convicted three times and sentenced to death. Finally, Governor Louden commuted his sentence and sent him off to Cleveland where he became active in politics in Cleveland.

I entered the University of Pittsburgh and in my junior year I enrolled in the ROTC program. The professor of Military Science and Tactics called me in to say, Wallace, you cannot be admitted to this course. There was a captain, now he was from Minnesota, that bears out something that was said last night about north and south. A captain, who heard this, called me to his office, he said come

down, I want to talk to you and I didn't know what he was going to say, but he said, "Wallace, the University cannot keep you, deny your registering this course for credit, and you do that and then I've got forms here, you apply and send your notice, your letter to General MacArthur who is in command of the Third Corps area and let him decide. True," he said, "this is Coast Artillery and there are no Negroes in it, but you go ahead." And I did. It took a year or so. The Major lost some ranks--in his promotion ranks. It wasn't because he denied me, but he mishandled the case. He wasn't slick enough or shrewd enough to keep me from getting in, but that went all the way to President Coolidge and I was admitted. Of course, I didn't get into the Coast Artillery for some other reasons I won't repeat here. But things like that, denied opportunities, when simply on the basis of the fact that I was colored.

One other instance, a personal reference, I just have to tell these things in response to these things that were said this morning. I had the privilege of being educated through the first eleven grades in an all segregated school. That was fine; I had some fine leaders, and I had some very poor teachers, too. You know, nowadays they talk about all the excellent Black teachers of yesteryear. They've forgotten about the rascals and the poor teachers that we had. I moved on to Pittsburgh to the integrated school, Alleghany High School, in Pittsburgh, and I was told, "You will never graduate from here in a year." Well, I entered a physics class. I was making A's in physics. I had a very fine mathematical background from East St. Louis from a Negro teacher who was very outstanding, not only in his knowledge of math, but in his teaching ability, making all A's. So one day, the teacher said to me, after he'd assigned me to tutor some other students in the class, and he said, "Wallace, which one of your parents is Chinese?" "Chinese," I said, "I'm colored." "Oh!" From that day, I got only C's and the dirtiest thing that ever was done to me was that my mother was an

awful fighter, she was a tremendous fighter. She argued. She went down; we met her in the door of her classroom, and she stood there and marked a "B" on my card and never turned it into the office. Never!

Now, you tell me that I want to go back to those kinds of days, that segregated pattern of living, where we were considered to be inferior and different. It has been my privilege in West Virginia to associate with people. While there are some rac...I am racist too, in many regards, you know. It's hard to get this all out at once, you see, it's going to take some time. But, we've got to work on it.

Now, a number of papers and reports and newspaper articles have been written regarding the dramatic changes that began to take place at West Virginia State College in May of 1954. Among these are, I'm sorry that these terms were used in the opposite sense today, "Reverse Integration" by Ernst and Calloway. Now, Mr. Ernst was a reporter and staff member of The Charleston Gazette. Calloway was our professor of Education and was our public relations man beginning in 1953. As a matter of fact, one of the first things I did, I was told that it was very foolish. Calloway was Superintendent of Negro Schools in Kanawha County and he was a writer for The Pittsburgh Courier. He protested the inequality of faculties for Negroes in Kanawha County. Well, the Board said, "They're equal. We give you the same per capita allowance as for whites." "But," Calloway said, "our laboratories in the chemistry department don't have any test tubes, we don't have any burners, we don't have any chemicals, we don't have this course and that course." "Well," they said, "but it's equal. We gave you the same amount of money per capita. But there were so few Black students in comparison with whites, naturally we didn't have any money." So his protest didn't cease and he continued, you see, and they eventually demoted him and demoted him. Finally, he had to leave the county. He hadnt' been gone but three or four months before I brought him

back and he was one of the finest persons, one of the greatest persons in pushing the programs of this college.

Another publication was, "A Living Laboratory in Human Relations" by Bill Francois who was assistant professor of journalism at Marshall University; and that was published in the Saturday Review. By the way, "Reverse Integration" was published by the New York Times Magazine, January 8, 1957. The other articles are "Integration in Reverse at West Virginia State College" by Elizabeth C. and James A. Duran, Jr. in 1976 and "Monument to Equality" by L. T. Anderson published Tuesday, September 27, 1977 in The Charleston Gazette.

Newspaper reports have appeared in The Detroit Free Press and The Washington Post, the former by a reporter who came to the campus to interview many persons and the latter by a newspaper correspondent who delivered a lecture here on campus. There are many others I am told, all offering their opinions about events happening on this campus during the period 1954-1975.

I also cite the Statement of Representative John M. Slack published in the Congressional Record-Extension of Remarks for February 7, 1973. If the personal references are omitted there remain some general evaluations of the twenty years and seven months of my tenure as President of this College.

Representative Slack wrote, "On June 1, 1953, Dr. Wallace was appointed president of what was then a state-supported all-Black college. The following year the Supreme Court ruling ended segregation in public institutions of higher education. During the intervening years he has presided over the gradual transformation of the college from an all-Black institution into a fully integrated facility prominently placed to influence all phases of life in the community."

Of course, I must point out that full integration was not achieved. However, a very good beginning was made, and when I left on June 30, 1973, I had every reason to be optimistic about the future not only for the college but for our

community in so far as race relations and the participation of Blacks in the total life of our community.

I have been disappointed that revelations of experiences and evaluations by members of the faculty and staff have not been written by members of the faculty and staff who were more intimately involved in the everyday victories and defeats in bringing about racial harmony and understandings on this campus. The Ernst and Calloway observations mentioned the involvement of Dean Harrison H. Ferrell in reaching acceptable agreements in controversial situations. Dr. Ferrel simply continued doing that which he had been doing as faculty member, as Registrar and Dean of Academic Affairs the previous twenty-six years, 1928-54. It is said, and he did not deny it, that he remembered the name of every student who had been in his office, and particularly if that student had had an academic problem, or wished to talk to him about other matters. Friendliness was his characteristic and this was a quality we emphasized particularly during the early years of the new era at West Virginia State College.

The Deans of Student Affairs had particularly difficult jobs during that period. Dean James Kelly will on the program discussing the future. No doubt he will mention some of his experiences that he thinks important. He was Dean of Men. Willie P. Russell was Dean of Women. Another staff person who can contribute much to the evaluation of the impact of Brown is Dr. Jack Yeager, now Dean at the College of Graduate Studies, but who was Dean of Men and later Dean of Students during the exceedingly difficult period surrounding the murder of Martin Luther King, Attica, and the immense opposition to the Vietnam War, especially by our young people. There was the spirit of revolt which filled the hearts of some young Black students who were convinced that they had to express, in some violent way, their lack of hope in America, the shattering of their dreams, by the slowness of the realization of the freedoms they thought they had been promised.

Under the leadership of Dean Yeager, with the cooperation of student government officers, Black and white, this campus survived. We built a building for the R.O.T.C. Program toward the end of my term, when other institutions were burning theirs down. The spiritual impact of Brown was brought to light when Blacks and whites brought together by critical situations overcame antagonisms and created positive results. The spirit created here spread to the community and Black faces began to appear in offices and work places where it had been said that they would never be found. I will never forget the day that Silas Pickering who was Director of Personal Affairs at Union Carbide said to Professor Paul J. Moore and Julius Thomas who was one of the top Urban League Officers, and he said to us, "It will never happen. Union Carbide will never appoint any Negroes above those of janitorships in this industry. We have too fine a labor market here of poor whites who are perfectly content and we are not going to disturb them."

There were some misinterpretations of events on this campus. Soon after the news of the death of Martin Luther King, leaders of the Human Rights Commission attempted to take over the campus. I was amazed that anyone was going to take over the campus from me, on the premise that we could not protect the Black students. The implied threat was non-existant. We didn't have any white students who wanted to attack Black students. As a matter of fact, it was just the other way around. We had a group of Black students who wanted to make war on Dunbar. I stood over there in the College Union that evening and argued with them and finally through some humorous situations, pointed out to them. One fellow was staggering around and I said, "If you want to shoot at someone, you ought to reflect upon that you couldn't hit the side of a barn the way you are now with a shotgun." That brought a lot of laughter and the tension disappeared.

The Commission leaders had to be reminded that on this campus were Black and white students and all of them were vital to our operation, being involved in our programs and plans. By that time, 1968, we had had fourteen years to develop some kind of spirit on this campus.

I must not go on to another aspect of life at West Virginia State College 1954-73 without mentioning again Dean Yeager. On the occasion of Armed Forces Day in the early seventies, a General of the Army was on the platform of what is now Ferrell Hall, when a group of faculty and students and outsiders demonstrated by disturbing the assembly. On the third and last time that I intervened, I announced with loud tones, "Dean Yeager, proceed with the plan we agreed upon to handle this situation." Whereupon the Dean remarked, "Who needs enemies when I have a friend like you."

The experiences we encountered during this period indicated to me that Black students had entered the main stream of events. All over the country these situations were developing. Black students were entering the big tent, leaving the confines of the side shows in our national life. They were being accepted.

In my opinion, the most striking evidence of the impact of Brown upon West Virginia State College is in the enrollment figures. I hated to do this. Dr. Davis was a great man but he misinterpreted the trends at times. Full time enrollment as of September 30th in each case that I have chosen to demonstrate the effect is as follows:

1945-46	851
1946-47	1391
1947-48	1788

There was a period of rapid growth following World War II. The big increases in enrollment led to a conflict with Dr. Davis, the president of the college. At that time, I was Administrative Assistant to the President. I asked the question,

"Are we educating students or building buildings?" I was prompted by the fact that we were not able to provide comfortable living accomodations for our students. The reputation we gained during this period for mistreating and miseducating students remained with us for a long time, and I believe was a predominate factor in the relative small enrollments on campus, following us through the sixties and even after the opening of Sullivan Hall, Prillerman and Hill Halls were constructed and opened but their capacities were insufficient to meet the demand. Dr. Davis replied to my question by saying that, "We must build buildings to educated students." End of argument.

A second trend I call to your attention. Figures giving the full time enrollment beginning in the school year 1948-49 are:

1948-49	1601
1949-50	1415
1950-51	1264
1951-52	994
1952-53	889
1953-54	831

You see this is one of the reasons why I said that was false scholarship, which the previous speaker mentioned here. We were a failing institution when we were an all Negro institution. They were dropping. That's a lot different than having an institution which is succeeding, and then you see, adding other students to it. This is quite a different picture. And when I realized this drop in enrollment, and as Administrative Assistant, I should have known something about that...But I was involved in a lot of other figures with regards to what the government owed us in terms of their allowances and so on. An so it escaped me. But when I woke up to find out that I was appointed the President of a dying institution, I became concerned. Why did I do this? This was a period of rapid decline. The enrollment in September, 1953 was only 51.9 percent of that of September, 1947. When I assumed office as Acting President in December, 1952

we actually had 793 students. We did make a great effort that year and did increase the enrollment to 831 in 1953.

Then the magic years began. I don't understand some people. They seemed to think that I should have stood in the door like Wallace of Alabama did and say, "No, no, no! You can't come in here." Here I have an opportunity to build a career, and somebody expects me to say, "No, no no! You shouldn't do that. You should remember the race." So I said, "Here, I've got a chance," and I knew I had a chance because white students had been on this campus. One of the first things that a reporter from The Charleston Gazette said to me was, "Dr. Wallace, don't tell me that white students haven't been on this campus. I understand that you have said that. All of our staff at the Gazette in the printing department have been in printing classes on this campus. And they were all white."

Well, in 1954 the magic years began:

1954-55	906	
1955-56	1226	increase of 35%
1956-57	1698	increase of 38%
1957-58	1728	increase of 2.0%
1958-59	1899	increase of 9.9%

In a period of four years recovery of enrollment was more than complete since in 1958-59 the number of students exceeded the highest enrollment in the segregated years--1788.

The data cited is sufficient to establish the conclusion that the impact of Brown was to make West Virginia State College a dynamic, growing college rather than a dying one.

Why was this happening to us? And this is where I think scholarship should have been investigated. In the early fifties the mechanization of the mines in the coal mining industry led to a large loss of population in the state. Some whites found compensatory employment in the growing chemical industry. But that industry, at that time, was closed to Blacks. Thus it seemed inevitable that the enrollment would continue to decrease.

In addition, the out-of-state enrollment began to decline. In 1953, 408 of the 831 equated full time students were out-of-state students, 49.1 percent of the enrollment. This was a decline from previous years. The state of West Virginia had been very gracious with us. I could have cited some figures which have shown that there were years in which 60 percent of our students were from out-of-state, and that's a kind of no-no. West Virginia frowned on educating large numbers of students from other states. We dropped considerably from that and there was a reason. The southern states from which we drew many students were increasing financial support of the segregated colleges. In the school year 1960-61 records show 215 of 1235 equated full time students as out-of-staters, a percentage of 17.4.

Quoting from my Biennial Report of 1960-62, the data "indicates that the full time enrollment was 82.6 percent West Virginian in 1960 and 80.6 percent in 1961." I concluded, "It is desirable that about 20% of the full time enrollment should be from out-of-state. When the large number of part time students is added to the full time enrollment the implication is clear that the service area of West Virginia State College is primarily the local geographical community."

Let us look at some figures which support the last statement. These two tables point to three conclusions:

1. The percent of the enrollment of students from out-of-state had decreased from 49.1 percent in 1953 to 17.4 percent in 1960. There was an increase to 19.4 in 1961.
2. The percent of Kanawha County students increased from 32.7 percent in 1953 to 76.4 percent in 1961.
3. The part time enrollment increased from 10 students in 1953 to 727 in 1961.

TABLE I

YEAR	FULL-TIME STUDENT ENROLL-MENT	ENROLL-MENT FROM WV	ENROLL-MENT FROM KANAWHA COUNTY	% OF WV ENROLL-MENT FROM KANAWHA COUNTY	ENROLL-MENT FROM OTHER STATES	% OF STUDENTS FROM OTHER STATES	NUMBER OF FOREIGN STUDENTS
1953	830	419	137	32.7	408	49.1	3
1954	859	516	258	50.0	340	39.6	3
1955	1076	764	496	64.9	307	28.5	5
1956	1285	1024	761	74.3	254	19.8	7
1957	1275	1002	746	74.4	265	20.8	8
1958	1514	1211	926	76.4	295	19.5	8
1959	1344	1091	804	73.7	245	18.2	8
1960	1235	1010	742	73.4	215	17.4	10
1961	1416	1125	859	76.4	275	19.4	16

TABLE II

YEAR	TOTAL PART-TIME ENROLLMENT	PART-TIME ENROLLMENT FROM KANAWHA COUNTY	EQUATED FULL-TIME ENROLLMENT
1953	10	7	831
1954	124	119	906
1955	368	351	1226
1956	943	859	1698
1957	948	868	1728
1958	903	813	1899
1959	757	697	1706
1960	822	745	1619
1961	737	637	1784

According to figures released by the West Virginia Board of Education for other colleges and universities in West Virginia, more students from Kanawha County attend West Virginia State College than attend any other institution of higher education anywhere. This community, then, has accepted West Virginia State College as one of the educational institutions providing the educational backgrounds for the people that make this the kind of community which it is and which has a very bright future.

The impact of Brown then changed West Virginia State College from an institution that appealed to the national community to one that now served principally the local community, and from an all resident student body to one having a large number of part-time students. Many alumni have expressed great disenchantment with these changes. However, our appeals for help in recruiting students from other states have not been heard. Very little financial support was available for out-of-state recruitment.

The Commencement speaker for June, 1955 was Dr. W. W. Trent, State Superintendent of Schools in West Virginia. He stressed the point that Negro students should not desert West Virginia State College now that they could attend the schools for whites. You could feel the tension growing in that audience. This advice was received negatively by many in the audience. The opposition was very evident, indicating that the Superintendent, to them, was recommending continued segregation on a voluntary basis. Their interpretation was very wrong. His advice was good advice. If West Virginia State College was an excellent college before 1954 when it was all Negro, then it should continue to be an excellent institution with students of both races attending. It is quite evident that some desertion has occurred. In 1953, there were 831 full-time students--all Negroes. I have been informed upon inquiry that in September of 1983 there are 674 Black students on campus. The example that West Virginia State College has set for the state and for the nation will disappear as such unless the seeming trend is changed.

In pre-1954 days limited employment opportunities for Blacks meant limited educational programs, "deferred dreams," Langston Hughes' term that was the lot of so many. The impact of Brown in 1954 was to begin to lift the barriers to the battlefields of life for Blacks. When the newspaper reporter called me to tell me of the Supreme Court decision, I remarked that this is the greatest event

since the Magna Carta. Today I yet believe that. For as Magna Carta contained seeds of liberty brought later to fruit, so does Brown contain seeds of liberty for Blacks that can be brought to fruit. It opens to Blacks new freedoms and liberties. I emphasize the expression "opens the door." Paraphrasing John Houseman, "new freedoms, new opportunities, new challenges do not bite you on the bottom and say-we are here." They must be seized through sound preparation and learning and adaptations to working with people of different races, colors, cultures and national origin. Many Black students have done that here at West Virginia State College. I'm sorry to say that some have remained segregated in little groups on campus refusing to extend a hand to their white compatriots here and refusing to try to develop the kinds of friendships that are so essential in this American society. Many white students have seized upon the opportunities to enlarge their views of life, to fulfill some of their yearnings. It was a deep emotional experience for me to confer degrees and hand diplomas to older white students who had found ways out of the boring, humdrum existence that had been theirs, and with the help of West Virginia State College, to secure responsible positions in teaching, in business, in religion and in many avenues of life. Those were great years.

The majority of the Black members of the faculty and staff found that they could function acceptably in the world of reason. A very few found the pressures too great and left us usually to join the staff of an all-Black institution. Students who could not cope with the atmosphere here left us for other institutions.

Once the Supreme Court decisions had been announced and with the confidence that white students would enroll here, Dean Harrison H. Ferrell and Business Manager Charles Rutherford and I conferred together, reaching the decision to reestablish evening classes on campus. The design anticipated the enrollment of

older, mature white students. These students would be taught by outstanding Black teachers establishing the quality of our educational programs. At that time, there were only two white faculty members. The outcome was as we anticipated. The faculty was praised and almost immediately younger students followed the older ones. This was the principal method of recruitment in those days.

R. B. Welch took the place of Charles Rutherford and Edwin Hoffman succeeded Harrison Ferrell in the triumvirate that directed our policy. And I was glad last night to hear Dr. Hoffman give his background, because it was when I was in South Carolina to talk to the state Negro teacher's association that I heard about him and the confrontations that he had had with the Governor of South Carolina about the disadvantages that Black teachers had in training there. And I said this is the kind of person I want on this staff. When he applied for a position in History, I persuaded him to take the position of Assistant Dean of Instruction. Now, if he's the white person who did all of the recruitment of white students and so on, then I'd say that surely he did that, but not in 1954. He came here in 1960. He wasn't Director of Recruitment; he was Assistant Dean of Instruction, and later became Dean of Instruction. He brought in members of the student body, citizens, political people and all in designing our programs here. This was the response of the community to what West Virginia State College ought to be doing.

L. T. Anderson wrote in The Charleston Gazette, September 27, 1977, a column titled, "Monument to Equality:"

> "When the Supreme Court struck down school segregation in 1954, an immediate consequence was an influx of white students at West Virginia State College.
>
> The college theretofore was a "Negro" school. When the white students enrolled, they were welcomed by a Black faculty and a Black administration and what had been a Black student body. Some of the first white students at

West Virginia State unselfconsciously flung themselves into campus life, associating themselves with the student newspaper and joining various academic and social organizations. There was some discomfort. It soon wore off.

All this took place when Charleston church congregations were either Black or white and long before the Charleston Young Men's Christian Assn., of all things, accepted its first Black member. What happened at West Virginia State College did much to spare West Virginia the foolish racial strife that erupted in other previously-segregated states. With white people flocking to a Black school, bigots were hard put to find examples of the horrors they predicted.

The reputation of West Virginia State College, already considerable among Black educators, was enhanced. The campus situation was studied by flying squads of socialists. Writers from distant places came to Institute to observe a phenomenon of the times. The school's successful melting pot experiment was written about in influential journals.

A new generation of young people finds nothing unusual about Black and white students in the same school, the result of a lesson well taught. But some older people want to forget the school's pioneering role in race relations. Some now wish to erase all visible reminders of the college's Black origins, apparently in the belief that greater community support thus would be assured.

I hope the people who helped West Virginia State College become a monument to racial equality will not allow such a thing to happen. West Virginia State's traditions are vastly more significant than those of colleges which contributed nothing but merely stood by and looked on at a time of great upheaval. The traditions should be preserved, of for no other reason, for the historical record.

Our state has little enough to brag about. But it has West Virginia State College where Black men and women gracefully taught democracy to all."

His evaluation means much to me for I was a performer in the establishment of the monument he describes. However, I hope that neither Blacks nor whites now "wish to erase all visible reminders of the college's Black origins, apparently in the belief that greater community support thus would be assured." We

need greater local support, but I hope and suggest that greater local support will result from an integrated alumni association and from the increasing appreciation of the community for the contributions of the college to the community.

The Pride and Preservation movement on campus attempts to collect materials about not only the past of the college, but the history of Black people in West Virginia. This is a necessary and commendable project.

There are some persons, and I hope that the number will dwindle, who cry great crocodile tears that West Virginia does not have a Black college. They fail to see the importance of the college to the community and to the nation as an example of racial togetherness which I believe is absolutely necessary for the attainment of the real objective.

There are yet some great challenges for West Virginia State College to accept. Important among these is continued experimentation in human relations as is invoked in the phrase which I coined, "a living laboratory of human relations."

EDUCATION IN THE POST-BROWN ERA

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A great deal has happened in education since 1954. Because so much has happened, because matters now in education are quite different than they were at that time, I want to focus on this period of change. First I want to ask about timing: Why did school desegregation begin when it did? Then I want to discuss the processes through which desegregation began to take place, and the transformation that desegregation goals underwent. Then I will say something about the consequences of desegregating schools in the way we have gone about it. And finally, I want to ask whether a different course could have been possible, and what might have been different outcomes if that had happened.

In all of this, I will be speaking about elementary and secondary education--not about higher education--which of course is most directly relevant to West Virginia State. Add I will discuss some things that not everyone will agree with. But on with the story.

The timing of the issue: Why did it happen when it did?

Blacks have been present in the United States as a significant fraction of the total population since the days of slavery. Yet it was only in 1954 that the issue of school integration fully opened up with the Brown case, decided by the Supreme Court. It was then a long period of time (until 1970) before the great mass of schools in the deep South desegregated; and it was only in the late '60's and '70's that the issue of affirmative integration to overcome de facto segregation became prominent.

Until the Second World War, Blacks in the U. S. were concentrated in the South, and in the South were principally located in rural areas. With the war, Blacks

moved into industrial areas of the North in large numbers, and after the war, the migration continued. What seemed to occur was that the presence of large numbers of Blacks in northern cities made Blacks a political force in America for the first time since reconstruction days. This political power arose in part from their own voting power at the polls, which had been suppressed in the South, but probably more important in the 1950's, it arose through sensitizing northern whites to an issue they were content to ignore so long as Blacks remained invisible on Southern farms or in stable Black ghettoes in northern cities, in New York's Harlem or Chicago's South Side. What is striking is that the segregation of Blacks in their de jure segregated Southern schools or their de facto segregated Northern ghetto schools was no less before the war than it was in the 1950's, yet this segregation was far from becoming the social issue that it did become in the '50's and beyond.

Thus there was a surge of immigration of a disadvantaged minority into northern cities, leading to a high proportion of a highly visible minority at the political center. This demographic change was the precursor to the issue of school integration. There were for a long period homogeneous ghettoes of disadvantaged minorities whose children went to de facto segregated schools; yet this was not regarded as a social evil to be eliminated until the minority grew through imigration. If it had been regarded as a serious social evil, it could have been at that time eliminated with far less protest from parents of the majority "advantaged" children than occurred later, because the numbers were so small.

This relation of the timing of the issue to a major demographic change, following the curiously silent prior period, suggests that widespread interest in school integration on the part of the dominant majority stems more from a concern about societal integration than about the welfare of disadvantaged children. The

timing suggests that a strong interest in bringing about school integration on the part of members of the dominant group arises only when societal integration (or perhaps its own cultural and political dominance) is threatened by growth of a culturally distinct minority. In this way, school integration can be seen as one of a class of strategies designed to fend off a threat from a culturally distinct group in society.

It would be valuable to examine what happens in different circumstances such as a case in which the politically dominant group was lower rather than higher achieving, so that the minority was not "disadvantaged." Here one would expect even stronger moves toward integration, for the ambivalence of the politically dominant group about a negative impact of integration on their own children would not be present. Quebec, with its English-speaking Protestant and Jewish minority, is one example; another is Malaysia, where native Malaysians are the politically dominant group, but the Chinese are an advantaged minority. Both of these countries have imposed certain restrictive policies on the advantaged minority, Quebec imposing a requirement of French as the language of instruction, and Malaysia making illegal the Chinese private schools.

At the other extreme, where the advantaged minority is dominant politically, as was true in the post-slavery deep South and is true in South Africa, the common pattern is one of imposed segregation. In such circumstances, the dominant advantaged minority sees no prospect of assimilating the disadvantaged, because of their numerical strength, and can maintain cultural dominance only by segregation.

Although in England the division has been a class one rather than ethnic or racial, the class division was sufficiently strong that similar patterns may be found in English education: During the long history of Tory dominance, until the first third of this century, separate private schools and elite state schools (the grammar schools) were used by the dominant minority, to help strengthen the class

segregation. When control passed to the disadvantaged minority with Labor's rise to power in the 1960's, many of the private schools were induced into the state system, and a move toward comprehensive (i.e., class integrated) schools was instituted. The same pattern can be found throughout that part of Europe with a feudal history, where the rule by an upper class elite has given way to rule by the majority only in the latter two thirds of this century.

The social and political processes through which moves toward desegregation arose.

First, the desegregation issue arose in the U. S. as part of a political conflict between the North and the South that had its origin in the slavery period and the Civil War. The issue of school desegregation in the United States was, until some time in the 1960's, nothing other than a demand by the politically dominant North that the South end its legal segregation by race in education. This demand, however, could not be imposed by the President or Congress because of the federal political structure, which made education an explicit responsibility of the states. This legally decentralized character of public education in the United States became an important determinant of the process through which desegregation policy has taken place.

If the political structure were not Federal, with education a responsibility of the states, then if a political subordinate sector of the country such as the South operated an explicitly dual system, the Department of Education could in one stroke require elimination of the dual system. Given the Federal structure, that was not possible; the departments of education which could do this in the United States were state departments of education. States in the North had long ago imposed this requirement on their local school districts; states in the South had not.

There was one governmental avenue in the United States through which the nation as a whole, controlled by the North, could require the South to eliminate

its dual school system. This was through reinterpretation of the Constitution by the Supreme Court, an action which took place in 1954 with the case of Brown v. Topeka (Kansas) Board of Education. The Brown ruling overturned the longstanding Plessy v. Ferguson decision which had affirmed the legality of racially dual schools.

Throughout the 1950's and well into the 1960's, the only issue of school desegregation was the North vs. South issue of eliminating the South's legally segregated school system. Armed with the Brown decision, the President and Congress could have imposed specific timetables on schools in the South for elimination of the dual system, but neither Eisenhower nor Kennedy nor Johnson nor Nixon did so. The border states eliminated their dual systems soon after the Brown decision, but those in the deep South did not, in some cases allowing their local districts to exercise local option, in come cases requiring them to maintain segregation.

Transformation of the school desegregation issue over time.

The Brown decision was a curious one. It ruled on constitutional grounds that a child had a right to attend a school without regard to race. Yet to strengthen the grounds for the decision, as a "makeweight" (to use the term that some constitutional lawyers have applied), the Court discussed the damage that segregation could impose on Black children--citing social science evidence (principally that of Kenneth and Mamie Clark) in support. The court ruled against de jure segregation, but in the opinion on which the decision was based, held that de facto segregation was harmful. Thus although the decision could hardly be read to declare de facto segregation unconstitutional, the issue of de facto segregation, and its social and educational consequences, was present in the Court's opinion.

The educational and political issue, however, of segregation which arose from sources other than a dual system--principally residential patterns, sometimes

assisted by gerrymandering of school attendance zones--grew slowly, beginning in the 1960's. In 1960 the civil rights movement began with sit-ins in Greensboro, North Carolina, followed by extensive demonstrations and civil rights marches in the South, against racial discrimination of all forms. With the emergence of the civil rights movement the new issue of affirmative school integration, to overcome de facto school segregation, arose.

The whole movement, first toward elimination of de jure segregation in the South, and then toward reduction of de factor segregation both North and South, arose outside government. Government action was in response to political demands by pressure groups. The major organized pressure was from groups acting on behalf of Blacks, groups which were part of the civil rights movement. Prominent among these was the NAACP and its Legal Defense Fund, which had brought the Brown case before the Court on behalf of a Black plaintiff, and supplied the social science evidence that the Court used in its opinion.

These pressure groups acting on behalf of Blacks were, especially in the early stages, not principally initiated by Blacks themselves, but by members of the dominant white majority. These pressures came in part at local levels, leading to struggles within school boards. In some cases to desegregation plans initiated by the school boards to engage in desegregation, and in some cases these were struggles over the timing and method of compliance with the Supreme Court 1954 decision. But in other communities, there was not a question of compliance with the Constitutional requirement (since the district had never been found to be out of compliance), but of voluntary integration, to reduce the segregation that had arisen through residential patterns. But it was in the existence of organized groups at the national level, and the actions by these groups in pressing local cases (principally in the courts) that the process was most strikingly initiated and pursued outside government.

The transformation of the issue from one of eliminating dual school systems in the South to one of reducing segregation wherever it was found occurred through a series of stages. At all stages, the principal arena was the courts, though the executive branch of the Federal government began to play a role beginning with the Civil Rights Act of 1964. In the courts, a typical scenario was this: A district in the South with a dual system would propose or actually initiate a desegregation plan to comply with the Brown decision (or after 1964, to comply with Federal guidelines established in implementation of the 1964 Civil Rights Act). This plan would be approved by the Federal Department of Health, Education, and Welfare. The plan was often a minimal plan, which formally eliminated the dual system but left a high degree of segregation in the system. For a period, a widely-used plan was a freedom-of-choice plan, designed by Southern districts to allow white children living in areas where the nearest school would be predominantly Black to transfer to a school which would be predominantly white. These plans were sometimes implemented in a way that discouraged Black children from transferring to predominantly white schools; but however they were implemented, they left a considerable amount of segregation. The plans were initiated by school boards which wanted to disturb the district as little as possible, and thus bring about acceptance of the plan by white parents.

There is some evidence that under the freedom of choice plans desegregation was increasing each year, through transfer of increasing numbers of Blacks to schools that were initially predominantly white. One may speculate that within a few years a high degree of integration would have been achieved through the exercise by Blacks of this newly won right without the massive movement of whites out of the district or into newly formed private schools. But as has been characteristic of the school desegregation issue in the United States throughout its history, it was not an issue decided by governing elites and accepted by all, but

fought by contending parties. This meant that bringing about immediate racial balance in a system that had been segregated was important as a symbolic victory, even if large numbers of whites left the system as a consequence, leaving each school predominantly Black.

But, when such a plan was initiated, in this typical scenario, the local or national NAACP would be unsatisfied with the result, and a suit would be brought by the NAACP Legal Defense Fund on behalf of a Black plantiff, to declare the plan unconstitutional. The Court, finding a high degree of segregation remaining, would decide that the dual system had not been eliminated, and a plan involving more extensive desegregation would be required, with the district remaining under the Court's supervision to determine that it was appropriately implemented. In this way, the pattern of "acceptable" school desegregation was determined by a series of court decisions in local cases.

Following the passage of the 1964 Civil Rights Act and the 1965 Elementary and Secondary Education Act, the executive branch was empowered, in the Department of Health, Education, and Welfare, to establish desegregation guidelines that school districts must meet, with the sanction being a cutoff of Federal funds that were provided by the 1965 ESEA. Though these funds constituted on the average only about 8 or 9 percent of school district operating expenses, this sanction was ordinarily effective in bringing about compliance with the Federal guidelines. These guidelines, however, became more stringent as a result of the series of court cases in which certain forms of desegregation, such as the freedom-of-choice plans, were found by the courts not to be acceptable.

An additional element was provided by the 1964 Civil Rights Act, for its criteria of non-discrimination went beyond the dual school system elimination which was the outcome of the Brown Supreme Court decision. Some districts in the North, with highly segregated but formally unitary systems, did not meet the

administrative guidelines that were being applied in the South by the Department of HEW. Very tentatively, and far from uniformly, requirements were imposed on some Northern districts, and the issues of desegregation began (in the late 60's and early 70's) to move to the North.

In 1968, an event occurred that was important for the course that school desegretation was to take. This was the election of Richard Nixon. Before Nixon's election, through most of the 1960's, there was a struggle for control of the civil rights movement, and for the direction that the movement would take. The two major contenders were NAACP and CORE; and the directions they pursued were diametrically opposed. NAACP pushed for integration, of Blacks, in the school system as well as in other areas of life. CORE pushed for Black nationalism, Black pride, Black control, Black separatism. In the eyes of some part of the civil rights movement, NAACP's goals were not militant but accomodating; they were assimilationist, sacrificing Black identity for integration with whites.

Nixon's candidacy had an interesting effect. It unified Blacks in opposition; and Nixon was an opponent of racial integration in education. Nixon's opposition removed the stigma of accommodationism from the NAACP's goals of integration, and unified the civil rights movement behind these goals. The Black nationalist and separatist goals of CORE and other groups which had been regarded as more radical now played into the enemy's hands, because they fit Nixon's own anti-integration predispositions. Thus the desegregation movement gained a strength and unity, and was never again seriously challenged by the anti-integration vanguard among Blacks in the civil rights movement.

It is interesting further to note that by far the greatest reduction in school segregation throughout the whole period under discussion (and very likely in the history of American education) came in the Fall of 1970, during Nixon's

administration. In one year the schools in the Southeast changed from the most racially segregated in the country to the least. This was not by executive intention, but rather by court edict during the preceding year, to the effect that all remaining dual systems in the South must desegregate by Fall 1970. What was surprising, however, was that this massive change took place almost without incident.

It is probable that the success of this massive change was in part due to the use by the Federal government of firm and non-confrontationalist tactics toward Southern districts for the first time. Under the guidance of George Schultz--now Secretary of State--as vice-chairman of the domestic council, state biracial committees were set up and Federal, state and local levels worked together to meet the Court's requirement. The success of this non-confrontationist mode of bringing about school desegregation suggests that a similar process, if initiated by Eisenhower immediately after the Brown decision, could have brought about school desegregation far more rapidly and more peacefully than actually occurred, with less loss of whites to other districts or to private schools.

The principal process through which the issue of school desegregation moved to the North was again litigation in the courts. The situation was this: the increasingly stringent criteria applied in the South, together with the existence of Northern districts which clearly did not meet these criteria, were leading to what was in effect a double standard between the two regions. Armed with the legal weapons that had been developed and sharpened in the South, the Legal Defense Fund and others who had pressed the Southern cases moved North. Citywide bussing had been established as a precedent in a landmark case in Charlotte, North Carolina, and was increasingly argued as a remedy in court cases in Northern cities.

But remedy for what? The Northern cities had never maintained dual systems, so it would seem that these cases would be argued on grounds of the benefits of

integration for disadvantaged children. This, however, neglects the special characteristics of courts as the arena within which the struggle occurred. The Court's task was not to bring about an optimum educational experience for Black children; its task was the minimal one of protecting constitutional rights of all children to education administered in a nondiscriminatory way: equal protection under the 14th Amendment of the Constitution. Dual school systems by race were discriminatory, and had been struck down by the Court; but the Northern systems had not been dual. What the plaintiffs had to do in order to achieve the goal of integration was to show that a system although formally unitary had in fact discriminated against Blacks (or in later cases, such as the Keyes case in Denver, against Hispanics) thus in effect acting as a dual system, just as had the districts of the South. It was often not hard to locate some action which was intended to be, or could be interpreted to be, discriminatory; and given the early-established precedent that discriminatory action anywhere in the system justified or necessitated a system-wide remedy, the goal of achieving a court decision requiring system-wide integration would be accomplished.

Consequences of the special patterns of American desegregation policy.

It is clear from all the above that the desegregation policy in the United States has not been "policy" at all, but has been the outcome of a series of confrontations, principally at local levels, principally in the courts, and principally between the organized civil rights movement as representatives of local plaintiffs, and local school systems. This has had a number of consequences for education.

1. The fact that the Court was the principal arena, violation of Constitutional rights the principal basis on which cases were to be tried, and that there was almost total lack of trust between the parties involved, meant that the remedies which were required by the courts were often defective educationally.

They often required immediate compliance (the next Fall) with drastic reassignment plans, giving the districts little time to prepare teachers and community. They seldom provided additional money to accomplish a much more complex task than before. They used racial counts as criteria of success, rather than criteria more directly related to the children's welfare.

2. The fact that desegregation was ordinarily the outcome of a contentious struggle in the courts meant that attention was directed to symbolic victories rather than educational consequences. The interest groups which pressed the case were finished when they had won it; they showed little interest in insuring that the desegregation victory had beneficial educational consequences for Black students. At the same time, the school districts, acting under pressure, had less incentive to make their desegregated schools educationally effective than if they had been active participants in a cooperatively-developed plan. The more bitter the battle, the more reason they had to sabotage the plan imposed upon them.

3. The legal constraints of the court cases, dictated by the requirement to find discriminatory official actions on the part of a school district, largely confined desegregation policy to single districts, and most often central-city districts. This created an incentive for white parents of the sort most harmful to desegregation goals: to move across school district lines into a neighboring district with few Blacks. (Such a district will also be unlikely to face litigation: with few Blacks, it is unlikely to be charged and found guilty of discriminatory actions toward Blacks.) If there is one point on which all researchers in desegregation are agreed, it is that whatever policies are applied should be metropolitan-area wide, to prevent the creation of incentives for parents (particularly white parents) to act in a way that defeats the goals of desegregation. Yet the legal issues on which desegregation court cases have been based has made that impossible in all but a few cases (where inter-district collusion to discriminate is found).

Could it have happened otherwise?

Even with all the defects of desegregation policies in the United States, it might be argued that it could not have happened otherwise; that dual school systems were so entrenched in the South, and lack of contact between whites and Blacks was so characteristic of the North, that desegregation had to be a contentious battle. But before too quickly agreeing to this, we should ask, how much better off are we now than before? The answer I think is clear for Black children in the South: they are better off than before school desegregation took place. For education in the South generally, the answer is less clear: in some areas, a stable, largely white set of private schools has emerged from the desegregation controversies, so that segregation has not been overcome, but has in part merely shifted its grounds. In the North, the answer is also not clear: desegregation actions in central cities have sharply increased white flight from the schools of those cities to the suburbs. It is not clear whether segregation (overall, segregation, not merely within a district, but also including that which lies between districts) is greater or less now in the North than would have been if less confrontationist, more strategic, actions had been taken. Certainly there have been segregative side-effects to desegregation actions in the central cities.

There is far less confidence in the public schools today than in the 1950's before school desegregation began, and there is a resurgence of interest in private schools. Some of this is certainly due to a public reaction to the way desegregation has been carried out in the schools.

It seems quite conceivable that matters might have taken a very different turn. If in 1954, Eisenhower had accepted at face value the Supreme Court's decision, and had required that all school districts with dual school systems immediately comply with the law, aided with Federal funds and Federal support in

implementation, then a number of consequences would have followed. First, he probably would have been able to get away with it. This is what many Southerners expected after the Brown decision. Dual school districts were more expensive to operate, and a burden on many school districts. Second, desegregation would not have been a disguise for a battle over control of the school system, as it had in many localities. By addressing the issue before it had become a battleground in which offensive and defensive positions had been taken, it might have been possible to direct the attention of both parties to making desegregation succeed. There has been enormous effort and extensive resources used in the struggle over desegregation. If Eisenhower had, at the very outset, required compliance with the law, then it might have been possible to use those resources much more productively, in implementing desegregation.

If all this had happened in eliminating the legal issue of "dual systems," then the subsequent history of school desegregation might not have been played out in the courts, as it has in fact, but by local, state, and Federal educational officials. The results would certainly have been varied, and far from full scale "integration of the schools." But they might be more integrated than at present, and on a more promising path to the future. It may be of course that none of this could have come about; the issue may have been one that from the outset was too conflict-laden to be settled in any way other than direct legal battles. Or political processes in the United States may be so contentious and so little responsive to leadership by a respected elite that no less conflict-ridden course of events would have been possible. Whether a different scenario than the one that actually occurred was possible in the United States is a matter about which one can only speculate.

Where then does that leave us? What shall we do now? I believe we have finally reached the point where some attention may be given to making desegregation

work. Whites have finally begun to share power with Blacks and have begun to gain respect for Blacks. Blacks have begun to recognize the efforts necessary to making the benefits provided by the legal victories real benefits. There is some respite in the legal battles, and the danger is that problems of segregation will be forgotten until those battles must be fought once again. But there is also the opportunity to make education work, and work equally well for Black children, white children, and all children of the polyglot nation we have become.

BEFORE AND AFTER BROWN:
EDUCATION CONTEXT OF CHANGE

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Educational change for a people comes about when a decision is made to act in their interest and the ability to change is essential to any sound education. For me, the term education suggests a continuous learning process which prepares one to live in and serve their community based on an accumulation of knowledge, skills, attitudes, and cultural values. Such an education prepares one to develop a positive self concept, analyze critically their experiences, and prepares them for a highly competitive society.

For Black Americans, one of the most important and challenging changes has been their struggle for freedom and equality in the area of education. Many Blacks have viewed education as a major vehicle to their intellectual, social, political, and economic advancement. However, the Black community has gone through many reactionary changes in pursuit of an education. This has occurred because many African Americans believed that the white male power structure would treat them justly; that a racist constitution, 3/5 of a man clause, would protect their rights; that their God would punish the wicked for being evil, and because they have not been effective in creating political changes. This evening it is the purpose of this paper to call your attention to some of the educational concerns that existed before and after the Brown vs. Topeka decision of 1954 and to examine some of the ways Blacks tried to change the various conditions influencing the educational environment under which they were functioning.

In his book, Before the Mayflower, Lerone Bennett claims that the first seventy-five years when African Americans settled in this land with Europeans

they were free to associate and pursue whatever formal educational opportunities that were available without regard to race, color, or creed. However, in the mid-seventeenth century as boat loads of Africans arrived in the colonies, the Euorpeans began to extend privileges and rewards to indentured servants and instituted laws which placed African Americans in a state of servitude. The practice of white supremacy vs. Black inferiority became the custom and laid the foundation for educational practices which are still with us today. The education of free Blacks was severly hampered by custom and to secure slavery the teaching of reading and writing to a slave was made illegal throughout the South. Most whites began to support the theory that education would make Africans unfit for slavery.

However, the labor needs of the slave system and the skills which Africans already possessed established a concept of educational and work practices which were to be institutionalized in earnest after 1865. As slaves, Africans were trained and educated to speak some English, prepare the food, cultivate the crops, make the tools, build the houses, design and sew the clothes, shoe the horses, and perform many other skilled tasks which allowed for the development of a number of skilled artisans. Therefore, Africans proved they were capable of learning and that the white man's theory of their inability to learn was a lie. These anti-Black customs and attitudes from a hostile society meant that the educational development of Blacks and their sense of equality in living and learning could only be accomplished through constant struggle and change.

It is in this setting that some artisans as well as other Blacks and a few white individuals and groups led the effort toward literacy for slaves. They were not content to wait for American society to change the laws or for the federal government to guarantee the slaves an education. So it is in these early

years before the Civil War that slaves and free African Americans seized every educational opportunity to acquire some degree of literacy and move closer to freedom.

Under the cover of night and against the law, a few adult slaves were taught by sympathetic whites such as Sarah and Angelina Grinke.[1] Robert Russa Moton was taught by the family for whom he worked and William Heard hired someone to teach him. Thomas H. Jones and Frederick Douglass taught themselves to read[2] while others attended clandestine schools similar to the one operated by Mella Granson. Ms. Granson would teach each class of students what she had learned from the children of one of her previous owners.[3] Even slave children realized the value of knowing how to read and write and often learned the rudiments of an education from their white playmates. Richard Singuefield took advantage of such an opportunity from those with whom he played.[4]

A few religious organizations and leaders such as Dr. Thomas Bray, who founded the Society for the Propogation of the Gospel, provided an elementary level of education for the purpose of promoting the Christian doctrine. Other groups such as the Presbyterians were active in promoting literacy among the slaves and sent John Chavis to Princeton University as an experiment to determine whether Blacks could handle a formal classical education in an institution of higher education.[5]

Some African Americans who were educated possessed a defiant spirit and their knowledge motivated them to seek equality. Those Blacks who could read and write kept the illiterate slaves informed and served as an inspiration and example of what the tools of education could accomplish. The fears of white America were supported when the Blacks in Charleston revolted after reading and hearing about the debate on the Missouri Compromise. David Walker in his Appeal urged the slaves to rise up against their masters. The Appeal was distributed

widely among the slaves and is believed to have contributed to unrest among them. African Americans such as Austin Steward, Thomas Jones, Lunceford Lane and William Wells Brown gained an education while slaves and after escaping became writers and speakers in the anti-slavery movement.[6]

During the two hundred and some fifty years of slavery, many of those Blacks who became educated were a part of the leadership that kept the urge for and the trend towards education before Black Americans. Educated men and women like Susie King Taylor, Denmark Vasey and Martin Delany kept the possibility for change before their brothers and sisters by writing and speaking out against slavery, plotting and carrying out revolts, and teaching. Furthermore, the educated Blacks were a constant reminder to white Americans and to the uneducated Blacks that they were capable of learning; servitude was not a natural state and indeed the fears of Southern whites that education would make Blacks unfit for slavery was justified.

It was during the Civil War that certain events took place that made it possible for a different educational climate to exist. As Blacks fled to the Union lines, an appeal was made by the military leadership to provide some form of assistance for the refugees. However, the federal government moved slowly in responding to this request. The starving and suffering among the Black refugees was so severe that private individuals formed clubs such as the Contraband Relief Society and some religious groups organized to provide money, food, and clothing to meet the needs of the ex-slaves. Many private agencies sought to aid the freedmen by providing an education.[7]

Many of these various organizations started Sunday School, day and evening school which were attended by both children and adults. By 1863 the ex-slaves in most areas controlled by Union forces were being educated by sympathetic men and women from the North.

It was not until 1865, two years after private assistance had been initiated, that the federal government established the Bureau of Refugees, Freedmen and Abandoned Lands to meet the general needs of the refugee and assist the freedmen in acquiring the skills for facing a free and independent life. The greatest success by the Freedmen's Bureau, as it became know, was in the area of education. It cooperated with the private and religious organizations and organized day, night, and Sunday schools, industrial institutions, and colleges. Although most teachers were Northern whites with a few Southerners, it was during this period that the number of Black teachers grew and gradually assumed the responsibility of educating Black children. [8] Schools were started such as the three organized by the Black women in Natchez. The Black community in Savannah founded two schools and a board of education to establish policies.[9]

Although the arrival of the Northern teachers was the opening of new educational opportunities for Blacks, it was during the Reconstruction Period that educational institutions were formally established.[10] It was the leadership of the Black legislators in the Reconstruction governments that led to the establishment of public schools in the South and it was during this time that a number of Blacks built their own schools and paid teachers to educate themselves and their children.[11] When the Reconstruction Period ended, the freed African Americans had a taste of and passion for education which was only equaled by the Southern whites vindictive attitude against their education.

The negative response of the Southern whites to the quest for an education by Blacks was exhibited by burning their schools and insulting and beating the Northern teachers. When these hostile whites finally realized that the education of Blacks was inevitable and they could not stop the momentum started during the war, they became determined to control the type and quality of that education. They initiated a view that the education of Blacks would be based on the labor

needs of the South and that African Americans should not receive the same education as whites. Thus, in 1877, the educational system was to see the end of equal opportunities for Black and white youth and the renewal of white supremacy with the promise to provide "separate but equal" school facilities.

As the Reconstruction Period came to a close and the Federal Government abandoned Blacks, laws were passed in Southern states to require segregated schools and once again the educational context for Blacks was established by white America. Black and white children were separated by segregated schools but they certainly were not educated in schools that were equal. Schools attended by Blacks received less funding, operated fewer days and Black teachers were paid lower salaries. These schools were further handicapped by being denied access to auxiliary services such as public libraries.

To add insult to injury, the Supreme Court nullified the liberties granted Blacks by the Fourteenth Amendment. In the Slaughter House Case of 1873, the courts redefined the Fourteenth Amendment by saying citizenship in the Federal government was separate from the citizenship within a state. Then in 1883, the Civil Rights Act was nullified and the South once again had full control to limit the rights of African Americans. This was demonstrated by the passing of a series of statutes, ordinances, and customs which required complete separation of the races--drinking fountains, parks, waiting rooms, theaters, restaurants, and rest rooms. These new constitutional interpretations and limiting statutory laws institutionalized segregation and discrimination and set the tone for education and the struggle that would be necessary for almost 100 years.

This struggle was further aggravated by the abandonment of federal and state support. Blacks realized these negative reactions to their efforts to acquire an education must be confronted because the quality of their education was closely related to their degree of freedom. Missionary societies, church

groups as well as the federal government, funded such institutions as Atlanta University, Shaw, Morgan State, Fisk and Howard. The passing of the Morrill Acts made funds available for the development of land-grant colleges. Although the first Act of 1862 was not intended to support the education of Blacks, it was this act that was the basis for the founding of Alcorn Agricultural and Mechanical College and under the second Morrill Act of 1890 several Black land-grant colleges were founded. At the time of their development these Black institutions were designed to be primarily college preparatory and were little better than secondary schools. However, under the Black leadership of such men as Hiram Revel and John Burris many were to become accredited colleges by the early 20th century.

It is during this period that the debate over the type of education best suited for Blacks was begun. Booker T. Washington and W. E. B. DuBois expounded on the opposing views. Mr. Washington and his followers believed an industrial education was best for Black men and women. Although Blacks were to be taught reading, writing, and arithmetic, the emphasis was to be in the crafts for men and domestic skills for women. Washington saw success for Blacks through preparation for meeting the labor needs that whites were willing to allow them to hold. He believed having a way to make a living would allow Blacks to fight oppression by proving through example what fine, moral, useful, and hardworking citizens they were and they could further demonstrate their ability to save money and acquire property.

W. E. B. DuBois and other educated Blacks such as J. H. Magee and John Mercer Langston believed Blacks needed a liberal education. Mr. DuBois believed a liberally educated person should have broad knowledge of the universe, be able to critically analyze their world, have as a solid basis a sound foundation for living, and ability to become a thinking person. Although W. E. B. DuBois agreed

that one needed training for making a living, he emphasized the intellectual development of the mind.

These two philosophies of education and the issue of integration were the concerns that constituted much of the thoughts and efforts of Blacks in trying to seek an equal and quality education. The majority of African Americans believed that their needs could best be met through a broad liberal arts education and it was this type of education which dominated the institutions for Blacks. They also believed that this type of education could best be organized through integration. Thus the backdrop was established for the next phase of the struggle that African Americans were to pursue.

Although the majority of Blacks were receiving a liberal arts education, there was a mass effort to integrate the schools. In fact, the majority of the presidents, trustees, and faculty in the Black institutions of higher learning were whites and were paternalistic and dictatorial. The Trustee Boards were controlled by Northerners who withheld funds from institutions that did not behave the way whites felt Blacks should and the white administrators fired the professors and dismissed the students whom they considered radicals.[12]

Such condescending attitudes motivated Blacks to protest and precipitated a move by African Americans for control of those institutions of higher learning. Black intellectuals, journalists, and editors spoke out against the discriminatory practices of the white presidents of Black colleges and supported the student protests. In 1926, the first results of the struggle for control over the institutions of higher learning for Blacks came when Mordecai Johnson became Howard University's first Black president and Blacks began to gain control over their other institutions.

Around this time the Harlem Renaissance was at its highest peak as Black artists, musicians, writers and actors contributed to the knowledge base from which schools could draw their material for teaching and further research. One

person who was a contemporary of this movement was Carter G. Woodson who wrote Miseducation of the Negro. In this book he criticized the educational system of this country and its negative effect on Blacks. Woodson advocated change in the direction and content of the education for Blacks. He considered "the educational system as it had developed both in Europe and America an antiquated process which did not hit the mark even in the case of the needs of the white man himself. He said that if the white man wants to hold on to it, let him do so; but the Negro, so far as he is able, should develop and carry out a program of his own."[13] He believed that Blacks were daily educated in a philosophy and ethics that promoted the white men as strong, the consequence being Blacks seeing their status as one of weakness which was divinely ordained. He further believed that during the last three decades of freedom Blacks had done practically nothing to change that concept.[14] Woodson advocated for African Americans an education which would prepare them to think and do for themselves as well as equip them to compete and keep pace in new developments. In other words, he advocated an education that would prepare one to change. However, little was done to implement any of the changes suggested by Woodson and today his message is as pertinent as it was in 1933.

As Woodson was proposing a new curricula which could produce creative thinkers rather than imitators, the NAACP, in the 1930's started a campaign for equal educational opportunities to be acquired within an integrated school system. For the next twenty-four years the NAACP used the judicial system to test the "separate but equal" proposition. In Missouri the United States Supreme Court said the state was obligated to provide equal facilities for Blacks or admit them to existing facilities. Between 1948 and 1950 the law schools at the University of Oklahoma and Texas were required to accept Black students. The United States Supreme Court told Oklahoma State that Black students must receive the same treatment at the hands of the state as other students.

Thus, when the Brown vs. Topeka decision was passed, Blacks had struggled for nearly one hundred years to acquire an education and had participated in creating public schools and institutions of higher learning. Although the 1954 decision said "separate was unequal" eleven states set the stage for the current situation and passed one hundred, forty-five laws between 1954 and 1958 to maintain segregation. Those who wanted to maintain the old system made a feverish effort to increase the budgets of Black schools, to upgrade the standards and buildings, increase the salaries of Black teachers, and institute a more varied curriculum.[15]

A few public schools and white colleges began to integrate. Blacks responded to their disillusionment, the foot dragging, and the lack of enforcement to the court order by massive demonstrations. Across the South, Black students began what was to become known as the "Negro revolt." Black educators and psychologists articulated the need for parents to participate in the education of their children. Alvin Poussaint, a Black psychiatrist, advocated parent involvement in the assignment of teachers and the selection of the curriculum and texts. He also insisted that parents should be involved in evaluating the attitudes and determining the style of teaching utilized by the teachers of Blacks. If judged to be racist, then those teachers should not be permitted to teach Black youngsters.[16]

The revolting action of Black students and the various philosophies of education for Blacks were being initiated at the same time Blacks were entering white institutions of higher learning in greater numbers. By 1978, almost half of all Black students attending college were enrolled in such institutions. However, only a very small percentage of the faculties of white institutions were Blacks. Consequently, Black students and a few liberal white supporters who were inspired by the Civil Rights Movement of the 1960's demanded a more relevant curriculum and one that represented the role and contributions of Black Americans to this

country. They demanded an end to institutional racism and the use of restricting quotas on the number of Black faculty and students on white campuses. Thus, by 1970, many predominately white colleges had established Afro-American Studies programs and departments. These departments and programs brought another perspective to the cultural bias of the general education of all youths and young adults. It is this formalizing of the study of the Black experience that precipitated the emphasis on the roles and experiences of women.

At about the same time these changes in the curriculum were taking place, the Department of Health, Education and Welfare instituted affirmative action. Each college and university was required to have a plan which would set goals for hiring women and minorities in their institutions. Such requirements brought about a concern on the part of white males that minorities and women would be hired rather than qualified white men and the new phrase reverse discrimination came into use.

As a result of the affirmative action requirement and the desegregation mandate, there was a flight to the suburbs. A number of white middle class and a few Blacks fearful of the poor quality of education for their children placed them in private or suburban schools. The tax base of the cities declined and a decrease in revenue base for education occurred causing a deterioration in the quality of education in the central cities. Requests for funds to upgrade the curriculum and provide for general maintenance of quality public education was rejected at the polls. As the public began to take a hard line against increased taxes, the teachers began to seek salary increases and smaller class sizes and all these issues coincided with the inflation escalation. These issues describe the current situation facing us today.

In spite of these responses to the 1954 decision, there were a few positive changes made in the delivery of education. Integration, the Civil Rights Movement

and the demands for a relevant curriculum required teachers to become more responsive to the diversity of their student bodies. An effort was made to have the cultural and racial backgrounds of the various minorities reflected in the curriculum. Magnet schools were developed and bilingual programs were introduced. Afro-American history and literature were incorporated into the curriculum of some schools and the staff, faculty, and administrators of some institutions began to reflect the minority presence and perspective. A number of private Black schools were started, publishing companies were initiated to increase the availability of information, and museums were developed. All were poorly funded but indicated the awareness of some Blacks to meet the educational needs of the Black community. There was a movement on the part of Blacks into disciplines and areas heretofore they had not entered.

As these positive but small steps were being initiated, some subtle changes were taking place and were to adversely impact Black and some other minority youngsters. Special education classes, ability grouping sections and suspensions and expulsions as disciplinary measures were to have far reaching effects on Black and other minority youngsters. The special education classes and ability grouping sections had a disproportionate number of minorities and became segregated classrooms within desegregated schools. More minorities than white suffered from disciplinary actions which put the children out of the school for a brief period and in some cases permanently.

Consequently, in 1984 segregation, particularly in large urban areas, remains a critical issue. Presently a large number of Black youth both in Northern and Southern schools are attending educational institutions that have an enrollment of 50% minorities. In the Northern districts 30% of the Black students are in schools which are 90% minority and in the Southern district there are 15%.

It seems clear from this discussion that eighty-nine years before the Brown vs. Topeka decision and thirty years after this case that efforts to improve the

educational situation for Blacks has been a difficult struggle with positive changes clouded by negative setbacks. It would seem the question before us is what can we learn from the varied experiences we have faced in the pursuit of an education and what positive changes have our efforts or struggles brought to the educational system for Blacks in this country.

Certainly we can agree there have been some changes. In the markets of this country and those of the world the needs of the workforce have greatly changed. However, few Blacks have been educated to face these changes. We are in a highly scientific and technological period with few Blacks prepared to meet the current challenges. As a result, Blacks are found in large numbers in low paying non-skilled areas of the work force and in the marginal academic pursuits in the institutions of higher learning. We have not as a group taken responsibility for seeing to it that our children are given the necessary education nor have we developed a philosophy which will prepare our youth to cope with changes.

In the past, we have had to face the question of ability and aptitude tests and still must do so today. Since Post Reconstruction, white America has frequently used tests to force us to make detours. Education is not a free and open system at its best and for Black Americans that has been especially true as a result of testing along with other issues such as money and housing. You must test to get in school, through school, and to graduate. You test to get a job or to go on to college and professional school and once out of the professional school, you must test to pass the boards. A number of psychologists have proven that the tests are racially and culturally biased against Blacks with the results being failure or low test scores. These tests prevent the students from continuing their education and force large numbers into low paying non-skilled work.

In spite of the fact that by 1978 almost half of all Black students attending college were enrolled in white institutions, the Black colleges and universities

were and still are graduating the greatest numbers of Black men and women and most of our leaders have graduated from these institutions. This has great implications for the survival of our historically Black institutions of higher learning. We may have our foot in the door of the predominately white institutions today but it may be closed tomorrow. The questions being raised concerning the quality of education and the instituting of testing as a response to improve that quality needs to be carefully monitored. If we have no Black institution of learning to turn to where shall we go if the white institutions begin to limit Black and minority enrollment by testing. To start all over again building institutions would be difficult because of the economy and our lack of needed resources. Furthermore, I'm not so sure we have many Mary McCleod Bethune's and Booker T. Washington's who can build new institutions.

There are some studies which support the positive aspects of an integrated education. Children have an opportunity to learn about and appreciate differences. There are reports with evidence to support the fact that desegregation helps students learn. However, these positive results came about only with careful and thorough planning and preparation. The teachers, students, parents, and administrators were prepared to make the change from an all white to an integrated school and provided for a minority presence in all administrative and staff levels. There have been a few success stories involving integration but for the most part public education has made little overall gain in integration and presently is facing great financial difficulties. If the past is any indication, the ultimate victims of these difficulties are and will be Black children.

In the book, Black Educator: Myth and Tragedies, Thomas Sowell said that "Black people are often seen as a problem and recipients of benefits rather than the creator of something." He proposed that as a race we do have the intellectual capital to create. However, to produce a first-rate education we will have to

begin by finding out what has been done and with what results. Until we as a people stop approaching the quality of education as a moral issue and realize it is a political and power issue, we will forever be recipients. We cannot continue to depend only on litigation, protests, laws, and desegregation to meet the commitment to education. We must make education a priority by establishing goals and objectives and a plan for implementation based on the past experiences, present conditions, and trends for the future of Black people specifically and Americans in general. The Brown vs. Topeka decision set the tone for an enormous challenge yet to be met for educational change.

FOOTNOTES

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13. Carter G. Woodson, Miseducation of the Negro (Washington D.C.: Associated Publishers, Inc., 1969), p. xxxii.

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The Brown Decision and the Civil Rights Movement: An Historical Perspective*

By

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The Brown Decision should be viewed as a significant event in the Civil Rights Movement. Although this Supreme Court decision was important, it was not decisive for the movement. It established the legal parameters for litigation but did not forestall the demonstration phase of the movement nor render moot and useless the legislative phase. All phases, including the litigation phase of the movement, were essential in securing the rights of racial minorities.

It is important to view the Brown Decision as being beneficial for the majority group as well as for minority groups. If segregated education is inherently unequal and damaging to Blacks, such is damaging to whites as dominant and subdominant populations are complementary and interdependent.

Historically, one may understand the principle of mutual benefit by examining the development of public schools in the South. Thomas Jefferson believed that education was a way of preventing tyranny. He believed that an educated citizenry was more capable of attending to common needs. To prepare the people for self-governance and to prepare leaders for public service, he advocated a three-tier system of public schools: tax-supported primary schools in each ward that consist of several wards, and a publicly supported state university for the most promising students identified in the earlier schools. Jefferson assigned the state university the responsibility of preparing people for public-trust leadership roles (Jefferson 1813:114-118).

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Jefferson was unable to implement his idea. In Virginia, Jefferson's home state, less than one-half of the poor white children attended school, during his lifetime, reported DuBois (1969:638-639); and, of course, there were laws against educating Blacks during the age of slavery. With the exception of North Carolina, there were no tax-supported schools in the South prior to the Reconstruction period. The public school system in most southern states began after the Civil War and the election of Blacks to state legislatures (DuBois, 1969:648-649). All Americans, and particularly southern Americans, owe a debt of gratitude to the state Reconstruction governments (some of which were dominated by Blacks) for implementing a system of free public schools for children of all racial populations. Thus, whites as well as Blacks benefited from the work of the interracial state legislatures during Reconstruction, even as whites and Blacks have benefited from the Brown Decision of 1954.

During the age of segregation a decade and a half before Brown, only one-third of white adults over twenty-five years of age had graduated from high school. But a quarter of a century after Brown, two-thirds of white adults were high school graduates. During this same time span, the proportion of Black high school graduates increased from a minority to a majority of all Black adults over twenty-five years of age. There has been mutual benefit so far as year-in-school-completed is concerned. Both racial populations have experienced a rise in the proportion of their members educated and this has been accomplished while reducing disparity in educational achievement from a difference of 53 percent in median school year completed for Blacks and whites a decade and one-half before Brown to a difference today of less than 1 percent. It is fair to say that the Brown Decision helped both Blacks and whites and did not harm either group. However, it should be remembered that Brown came into being largely because of the litigation efforts of Blacks.

At the federal level, the legal attack on the separate-but-equal doctrine established as law in the 1896 Plessy Decision began in the 1938 case of Missouri ex rel Gains v. Canada. The court invalidated a plan of state payments to Blacks to seek elsewhere the professional education provided at taxpayers expense for whites within the state. A number of court cases were filed by the National Association for the Advancement of Colored People (NAACP) from this date on to eliminate inequality in financial provision for education of minority children in localities throughout the United States. The lawyers were building a record of the consequences of legally sanctioned segregation.

Following the development of a sound record, capped by the case of Sweatt in 1950, the NAACP believed it had demonstrated that segregated public education was inherently unequal. The court found that the new Texas law school that had been reserved for Blacks could not be equal to the well-established law school that whites had attended. The court mentioned the intangible qualities associated with a well-established law school that money could not buy in an institution. Thus, a segregated professional school for Blacks, although new, could not offer its students the full range of tangible and intangible benefits in the opinion of the court. The segregated school was declared to be unconstitutional, an invalid substitute.

In the Sweatt case, the Supreme Court came "within one step" of invalidating all racial segregation in education (Hastie, 1973:29). However, the court did not do this in Sweatt. It remained for Brown of 1954 to accomplish the full reversal of the separate-but-equal doctrine of Plessy.

The Brown Decision had to repudiate the separate-but-equal doctrine, given the evidence on which the court had ruled in the Sweatt and McLaurin cases. In the Brown Decision, the legal phase was won. William Hastie believed at that time that "the road ahead lay short and straight to the objective, an equalitarian

legal order" (Hastie, 1973:30). But such was not to be. Litigation was only Phase I of this social movement.

Elsewhere, I have presented in detail the second, third, and fourth phases of the Civil Rights Movement--demonstration, legislation, and implementation (Willie, 1983:229-246). They will be summarized here briefly.

The language of the Southern Manifesto and other public acts of local white leaders of various civil divisions indicated that they had no intention of abiding by Brown. Blacks had no alternative but to demonstrate for the full enforcement of Brown. By demonstrating in response to the bad faith efforts of whites to cooperate with the court by conforming to its requirements, Blacks were ceasing to cooperate in their own oppression. They had won the court case, according to accepted procedures of litigation. Their victory whites were attempting to ignore, deny, or negate.

Parenthetically, one may conjecture that legally sanctioned segregation would have ended before 1954 if whites had been required to abide by the Plessy Decision. If all separate facilities for Blacks had been equal to those of whites, the nation would have abandoned segregation as too expensive. The nation did not abide by the separate-but-equal requirements of the court in Plessy and was attempting to negate the desegregation requirements of Brown, until Blacks put a stop to this negative and unlawful behavior by whites. Through their own demonstrations which may be classified as negative adaptations of Blacks to the negative adaptations of whites, Blacks were effectively negating the negation.

The Civil Rights Movement proved that one negative adaptation tends to generate another. The escalation of negative activity will continue until one category of people makes a positive adaptation to the negative adaptation of the other. Since whites initiated the spiral of negative adaptations by refusing to

abide by the positive injunctions of the court, whites were obligated to make the positive move.

Recognizing that the unity of the country was at stake in the demonstration led by Martin Luther King, Jr. and others, President John Kennedy and then President Lyndon Johnson used all of their political ingenuity to get the Congress to enact the Civil Rights Act of 1964, which prescribed positive actions that civil authorities and civil divisions had to undertake to redress the grievances of oppressed groups.

The Civil Rights Act was signed by the President of the United States July 2, 1964 and became public law. This was the beginning of the third phase of the Civil Rights Movement--the legislation phase. More positive activities followed such as the Voting Rights Act of 1965 and the Fair Housing Act of 1968. The demonstration phase of the movement which extended over nine years was brought to an end by the legislative phase which was of four years duration.

The assassination of Martin Luther King, Jr. in 1968 was a negative act of grand proportion and closed out the legislative phase. Temporarily it plunged the nation back into several forms of negative adaptation by subdominant people of power to the assassination. This ultimate form of negation was assumed by many to be an action ordered or encouraged by some dominant people of power. At King's funeral, his spiritual mentor, Benjamin Elijah Mays, gave voice to the beliefs of many Blacks. Mays said, "We all pray that the assassin will be apprehended and brought to justice. But, make no mistake, the American people are in part responsible for Martin Luther King, Jr.'s death. The assassin heard enough condemnation of King and of Negroes to feel that he had public support" (Mays, 1969:14).

After the death of King, the nation had no options. It had to achieve community or disintegrate in chaos. There was imminent danger in an unchecked

spiral of negative adaptations as the demonstration phase of the Civil Rights Movement had indicated. Thus, the dominant people of power moved immediately to counteract the terrible assassination. They encouraged numerous positive acts through the government, business, education, and foundations for the purpose of implementing the promises of public law and overcoming past practices of racial discrimination.

Martin Luther King Jr.'s death initiated the earnest beginning of the process of implementation of the requirements of court orders and legislative statutes against racial discrimination. Their vigorous enforcement constituted the implementation phase--the fourth phase--of the Civil Rights Movement. There has been both progress and retroprogress since the Brown Decision. But the period of progress is only fifteen years old as we celebrate the thirtieth anniversary of this great event.

The dialectical method of analyzing history identifies a thesis that generates an antithesis that leads to a syntheses. The synthesis, however, is not the end of the matter. Always a synthesis becomes a new thesis that eventually generates a new antithesis that could lead to a new synthesis. Thus, the end is never an end but actually a new beginning. So the work of our society continues through the social processes of conflict, conciliation, and cooperation that may lead to further conflict, conciliation, and cooperation.

We have learned from this brief review and analysis of Brown and the Civil Rights Movement these things:

(a) The dominant people of power often lack the wisdom to know how and when to yield that which is not theirs to keep;

(b) Oppressed people seldom gain their freedom until they decide to cease cooperating in their own oppression;

(c) One negative adaptation tends to generate another negative adaptation until the group responsible for initiating the negative spiral of activity makes a positive statement.

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FROM HERE--WHERE?

James Kelly, Jr.
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Between the idea
and the reality
Between the motion
and the act
Falls the Shadow

T. S. Elliot

What happens to a dream deferred
Does it dry up
Like a raisin in the sun?
Or fester like a sore - and then run?
Does it stink like rotten meat?
Or crust and sugar over - like a syrupy sweet?
Maybe it just sags
Like a heavy load.
Or does it explode? Langston Hughes

We are here today to consider the state of education thirty years after Brown v. the Board of Education of Topeka, Kansas. We also want to bear witness to a significant past. We stand in this place, where at a different time the actions we took reverberate through the present and point to a possible and necessary future. An insight of George Santayana is appropriate at this point. "We must welcome the future remembering that soon it will be the past. And we must respect the past, remembering that once it was all that was humanly possible."

As one who spent eighteen years here as a Personnel Dean (1958-1966), I do not pretend to be a neutral observer, objectively analyzing historical phenomena. Like the Greek historian Thucydides, "Part of this I saw, and part of this I was." I want to honor that history, for as Thucydides said of his own, "My history is an everlasting possession, not a prize composition which is heard and and forgotten." The extraordinary history of West Virginia State College is a possession we much cherish and guard, for there are no permanent victories in the wars for equality and justice.

It is imperative that I pause and pay honor to whom honor is due, the late president, Dr. John W. Davis, of whom it was said that "West Virginia State College was his lengthened shadow." Years before Brown Dr. Davis told his faculty that, "The function of a Negro college is to work itself out of a job and become a college for all students," and he acted on that principle by building a high-quality, integrated faculty long before Brown. His eminent successor, President William J. L. Wallace, with indomitable spirit insisted after Brown that "We are going to be part of the solution and not the problem." With enormous resolution and disciplined impatience, he formulated effective policy and took positive, decisive action as the keeper of a dream--that West Virginia State College would become "a living laboratory in human relations." Governor Marland of West Virginia, when asked how deliberately was he going to speed desegregation, replied, "We will abide by the Supreme Court decision. Now!"

At the time of the Supreme Court's decision, West Virginia State was an all Black college. Two years later over one-half the student body was white. This change was accomplished without the devastating outcomes predicted by the prophets of doom and gloom--no catastrophic racial incidents, no inglorious compromise of salient principles. The Student Personnel deans brought faculty, staff, and students together to discuss the challenges of present and future settings which emphasized our common humanity. We planned, we watched, we waited. We succeeded. We reaffirmed Mark Twain's insight "Always do right: this will gratify some people and astonish the rest." Those who participated in that process are now scattered to the far reaches of the world, determined to personalize and institutionalize their learnings and eliminate the sanctified stupidities of our nation's past. We need to honor our past here, not only out of pardonable pride, but also because we

know that there are some lessons in history. There are some things worth repeating, and the success of "integration in reverse" is one of them. We must affirm this because of recent attempts to make part of the conventional wisdom the notions that somehow (1) desegregation is over with and no longer needed; or, conversely (2) it's gone too far and it didn't work anywhere anyway.

West Virginia State College continues to perpetuate its illustrious tradition by this distinguished lecture series highlighting one of the magnificent moments in American history. Richard Kluger in his fascinating provocative book Simple Justice (a book on Brown) asserts "Probably no case ever to come before the nation's highest tribunal affected more directly the minds, hearts, and daily lives of so many Americans...The decision marked the turning point in America's willingness to face the consequences of centuries of racial discrimination, a practice tracing back nearly to the first settlement of the New World."[1] Diane Ravitch in The Troubled Crusade observes:

> Never had the Supreme Court reached so deeply into the lives, laws, and the mores of so many people; nearly half the states of the nation were living according to laws that the Court had ruled unconstitutional. Approximately 40 percent of the public school pupils in the nation were enrolled in segregated schools.[2]

Ravitch views this Supreme Court decision as a radical change from an inglorious past. It was the Supreme Court in the post-reconstruction period that allowed the resotration of white supremacy in former slave states, allowed the removal of Blacks from voting roles and allowed Jim Crow laws to maintain strict racial separation.[3]

There is a profound sense in which Brown calls attention to the splendor and the contradictions of American history. It is a history of ecstacy and agony. Our purposes as well as our predicament make a balanced perspective essential to our progress. A disciplined look in retrospect for 30 years

may illuminate the past, inform the present, and chart the possible and probable in a challenging, ominous future.

We must not capitulate to the cynicism that claims we do not learn from the past. We are not Prometheus Bound or Camus' resigned Sysiphus. Our perspective should acknowledge the insight of H. G. Wells that "Human history becomes more and more a race between education and catastrophe."[4] It garners enormous wisdom in the caution of George Santayana "Those who cannot remember the past are condemmed to repeat it."[5]

We must ask ourselves the question, "What has Brown taught us? In what language shall we articulate our learnings? What is the distilled wisdom that comes out of our past experience?

The progress in the thirty years since the Court's decision striking down segregation in the schools has been marked by both triumph and tragedy: the triumph of the Civil Rights Laws which are bringing millions of the previously disenfranchised into the mainstream of American politics where they can speak (and vote) for themselves; the tragedy of delay, violence, assassinations, and the raising of unenlightened self-interest to stand as the highest ideal of a Presidency. We need to ask ourselves why, after thirty years, has the momentum of the Civil Rights movement radically diminished? Why, after the course was charted so clearly, when so much had been accomplished, why have the myths of "enough," and "we've gone too far" arisen with so much power to block the creation of a fair and just nation? Is our dream deferred going to dry up like a raisin in the sun? The dream will die if we do not attend to the lessons of history. To paraphrase Bernard Shaw, "only those who have nothing to teach or do not want to learn" believe that we cannot gain useful instruction from the past. Let me suggest what some of these lessons might be.

Lesson No. 1

Our history embodies a fascinating interplay of forces. In Brown and its subsequent implementation and acceptance we see the interplay of forces emanating from the executive, legislative, and judicial branches. Brown was in 1954 a court decision and there were attempts to overthrow or nullify that decision. President Eisenhower did as little as he possibly could until he saw that he must uphold the law in Little Rock. President Eisenhower asserted that "People have a right to disagree with the Supreme Court decision - since the Supreme Court has disagreed with its own decision of 60 years standing - but, of course, the new decision should now be carried out."[6] Southern senators attempted to harrass the federal judges who prevented local school systems from ignoring or evading the impact of Brown. Ravitch describes the vehement responses to Brown by the southern states.[7] Discrimination against Blacks turned out to be more than a southern phenomenon, it was a national problem.[8]

However, in spite of resistance, by the mid 1960's Brown had become the policy of the land enacted even more broadly by civil rights legislation and executive presidential commitment. Maximal progress was made when there was a confluence of all three branches of government.

We must learn as well from a second set of interacting forces--the forces exerted by brave leadership, on the one hand, and those exerted by a democratic populace with deeply held humane values on the other. On May 17, 1954, the Supreme Court, (the least democratic branch of the national government), felt no compulsion "to nourish the collective biases of the electorate" and reaffirmed the inherent equality of mankind - one of the fundamental, self-evident truths in the American belief system. The court provided critical

leadership at a crucial point in history but its leadership had an effect and prevailed because its action reaffirmed a fundamental belief of Americans. Thus, Brown was not only a legal decision, it was also political and symbolic--"political" in the best sense of that term. Consititutional decisions are not self-enforcing. They cannot run contrary to the deepest values of our people. The truth of the matter is, the Supreme Court functions in a complex political environment. Mr. Dooley observed, "I don't know whether the Constitution follows the flag or not, but the Supreme Court follows the election returns." The Dred Scott decision, one of the worst decisions ever promulgated by an American court, shows what happens when humanity, justice and the moral foundations of the nation are ignored in favor of class expediency. Justice Taney asserted "a Negro has no rights that a white man is bound to respect." Civil War is too high a price to pay for judicial arrogance. It was the genius of the Warren Court that it looked to the future and tried to prepare the nation for it in the Brown decision of 1954.

If any lesson has become at all clear from the history of the embattled retreat from segregation it is that the attack on bigotry and injustice has to be fought on all fronts--with votes, political interest groups, multicultural education, economic planning, and above all, with allies North and South, of every complexion, in each political party and from each social and economic class. Litigation will not by itself solve problems with deep and stubborn roots in economic and social conditions. That is, the issue of segregation is (or ought to be) legally settled. The political, social, and economic implementation is and has to be the continuing concern of political and moral coalitions. The lesson is, then, that we cannot predicate our total trust, our hope, our faith on the government as the watchdog or legislator of institutional or individual behavior. Legal decisions are an outgrowth

and an expression of the prevailing ethos. The forming of that ethos is our proper business.

Lesson No. 2

Opponents of equal opportunity deliberately frame the questions in words which elicit a negative response, designed to bring out the worst in people. One of the most curious of the half-truths that has been bruited about by the neo-segregationists is the recasting of the American Dilemma in terms of Equal Opportunity versus Quotas. In their more hysterical moments they seem to find Robespierre and his guillotine lurking beneath every civil rights belief.

We have a new rhetoric of justified inequality--a rehetoric of sounding brass and tinkling cymbal. What we must not do is to allow the argument to be set in these terms. We must point out as often and in as many places as possible that liberty and equality are not polar opposite qualities. We must talk in terms of equal opportunity as the necessary condition which we must reach. The question before us in education and the schools is the question of at least equal opportunity, at least a fair start in life, at least an educational entitlement that allows all children to choose the path to a life that is personally enriching, socially useful, economically rewarding, and spiritually fulfilling.

We must ask of our leaders that they attend to the citizens aspirations and hopes, their aspirations not only for themselves but also for their children. The sour quality of much of what we hear from elected officials dishonors the speakers and the people who elect them. The astonishing contention that people are hungry by choice, (if hunger exists) is typical of this kind of discourse. Evidently the price of standing tall in the saddle is impaired moral vision.

Our lesson here is that history can bring out the worst in us and the best in us. We must be constantly vigilant to insure the agenda of equality and justice is set in terms defined and acted upon by persons of good will, not the apostles of selfishness.[9] The ancient and dishonorable notion that private vice is public virtue has no application to the questions of equality and justice. The terms of discourse must become and remain ours, not the property of equality's enemies. Slogans, such as "the courts are color blind," are not solutions regardless of whoever coins them.

Lesson No. 3

We must realize that thirty years after Brown we have moved into a new and perhaps more dangerous period. Bigotry needs no racial segregation if its desires can be satisfied by an economically and socially segregated school system. In many ways, we are a more segregated society now than we were thirty years ago. While it would be difficult to find anybody who would not affirm the principle that an educated citizenry is a necessary condition of a free society, it is not difficult at all to find the David Stockmans, the George Gilders, and the Robert Bartleys to provide the meretricious statistics, the disgraceful equivocations, and the mean, sneering rhetoric to justify the squeezing of social programs that the well-off do not need.

We have found ways to resegregate, not on specific racial grounds, but with results that are just as destructive to fairness and justice. We have been made painfully aware, in the years since Brown, that education is about more than education and schooling. It is about politics and economics. If our nation becomes more and more divided between high and low income and between the employed and unemployed; if the burden of economic recession is borne disproportionately by minorities; if the poor become more and more

segregated; if access to decent schools becomes more and more geographically difficult, if we are developing in America a class system of education, where the futures and aspirations of individuals are determined for them by the kinds of schools they attend, what need has bigotry for racial segregation?

Lesson No. 4

There is a cost to this resegregation that we have not yet learned to calculate. We have allowed the obsession with the alleged costs of desegregation to obscure what our real concern should be: the cost of segregation to institutions, communities, groups, and individuals. We should add the devastating, intangible moral and psychological costs of segregation, not only to its direct victims, the segregated, but also to the privileged. The terrible burden of bigotry is manifested in distress about the quality of schools, in the strain of "changing neighborhoods," in the tensions among those who have to undergo unwanted social dislocation. Balanced against these debits, the costs of busing are trivial. What we have learned, and what we must constantly remind ourselves is that the costs of social change are charged always to those who are the least able to afford the strain. When the schools become agents of social change, we often force children to do adults work. The psychological costs are incalculable.

The lesson is that we must take account of the frustration and peril that follow in the wake of extravagant expectation. Evil is resilient--it takes no Bible study to tell us that. On May 17, 1954, we did not understand the magnitude of the task. We did not understand that good will alone is not enough. We did not understand that persons who said they supported "separate but equal" because it was law, (Plessy v. Ferguson) would not support "with all deliberate speed" when it became the law (Brown v. Topeka). We did not

understand that the long years of preparation leading to the successful argument before the Supreme Court may have been only the beginning, and perhaps not the most difficult part of the task. We have futilely pursued simplistic solutions without understanding the inextricable interdependence of our social institutions. Desegregated schools are no solution as long as our politics, our housing, our incomes, our class structure, and our churches are segregated.[10]

Lesson No. 5

The nostalgia and resentment that follow radical social change generate the pernicious myth that there is a great, good place in the past that we must return to because we have gone too far. With newly found freedom in the land of promise, we still yearn for the flesh pots of Egypt. In the words of Marshall McLuhan, "We march into the future looking into the rear-view mirror." Years ago an old farmer in Hilltop, West Virginia remarked to me, "Things ain't what they used to be." Then he added philosophically, "In fact, they never was."

The lesson is that we underestimated the inertia and resistance to the impact of Brown, not only among those who resisted to the last breath acknowledging the Supreme Court's laying down of the law, but also among those who, while paying lip service to constitutional principles, yearned for more comfortable days.

* * * *

Before we can usefully begin any discussion of what to do about the present sorry retreat from a possibly better world, we have to reaffirm a first principle:

Equality is a good thing that needs no defense. Its shifting definitions over time are no excuse for questioning its validity. We believe in equality

before the law. We believe that all persons are created equal. We believe that the privileges of wealth, position, class, and status must be offset by high quality education for all. We believe that discrimination is an abomination that cannot be tolerated in the distribution of educational and other societal resources. We believe that conflicts between liberty and equality are trivial compared to what they both contribute to the lives of free people in a free society. One is necessary to the other. We believe that our schools must reflect, embody, and exemplify the values of freedom and equality.

* * * *

There have been many attempts to rewrite the history of Brown to make it appear that there was something equivocal, hesitating, reluctant, or otherwise muddled in the minds of the Justices of the Supreme Court who ordered the school systems at litigation to proceed "with all deliberate speed," in the May 31, 1955 Brown II decision. Those who were satisfied with the status quo have misread the court's intent. We have tended to invoke the compromise of principle, when in truth politics is equally concerned with the art of the necessary. The phrase "all deliberate speed" was not invented by the Supreme Court. It appears in Scottish law (cf. Sir Walter Scott) as an order to do it now, and carefully.[11]

Author's footnotes were not included
in the proceedings and thus not received
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ACKNOWLEDGEMENTS

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The Moderators

Dr. ANCELLA BICKLEY is Vice-President for Academic Affairs at West Virginia State College. She received the Bachelors degree from West Virginia State College, the Masters from Marshall University and the Doctorate from West Virginia University.

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Attorney SARAH HALL is Assistant Prosecuting Attorney for McDowell County. She is a graduate of Bluefield State College and holds the Doctor of Jurisprudence from West Virginia University.

Dr. EDWIN D. HOFFMAN is professor of History at West Virginia State College. He received the undergraduate degree from City College of New York and the Masters and the Doctorate from Teachers College, Columbia University, New York.

Attorney JOSEPH LONG received the Doctor of Jurisprudence from West Virginia University and is a practicing attorney in Bluefield, West Virginia.

Dr. BETTY HARRIS JAMES is a faculty member at West Virginia State College. She is a graduate of the University of Pittsburgh with the Bachelors, the Masters, and the Doctorate Degrees.

Program

FEBRUARY, 1984

LEGAL ASPECTS OF THE BROWN DECISION

Friday, February 10, 1984
10:00 a.m.
Ferrell Auditorium

SPEAKER: The Honorable Robert L. Carter
Judge, U.S. District Court, New York

TOPIC: Background Legal Aspects of the Brown Decision

SPEAKER: Mr. Dexter Eure
Director, Community Relations and Assistant Promotion Manager, *The Boston Globe*

TOPIC: Desegregation/Integration and the Media: Fallout from the Brown Decision

MODERATOR: Attorney Nelson R. Bickley
President, The Mountain State Bar Association

Friday, February 10, 1984
7:30 p.m.
Belcher Theatre
Davis Fine Arts Building

SPEAKER: Attorney Jack Greenberg
Director-Counsel, Legal Defense Fund

TOPIC: Civil Rights Law and the Brown Decision

SPEAKER: Mr. W. E. "Ned" Chilton, III
Publisher, *The Charleston Gazette*

TOPIC: Desegregation/Integration and the Media: Fallout from the Brown Decision in West Virginia

MODERATOR: Attorney Sarah Hall
Assistant Prosecuting Attorney, McDowell County

Saturday, February 11, 1984
10:30 a.m.
Belcher Theatre
Davis Fine Arts Building

SPEAKER: The Honorable A. Leon Higginbotham
Judge, U.S. District Court, Philadelphia

TOPIC: The Roots of Separate and Unequal: The Virginia and West Virginia Heritage—17th to 20th Century

MODERATOR: Attorney Joseph Long
Bluefield

APRIL, 1984

SOCIOLOGICAL ASPECTS OF THE BROWN DECISION

Wednesday, April 11, 1984
7:30 p.m.
Belcher Theatre
Davis Fine Arts Building

SPEAKER: Dr. Kenneth Clark
Psychologist, New York City

TOPIC: The Sociological Aspects of the Brown Decision

MODERATOR: Dr. Edwin D. Hoffman
Professor of History

IMPACT OF THE BROWN DECISION ON HIGHER EDUCATION: A SYMPOSIUM

Thursday, April 12, 1984
9:45 a.m.
Ferrell Auditorium

MODERATOR: Dr. Thomas W. Cole, Jr.
President, West Virginia State College

TOPIC: The Impact of the Brown Decision on Higher Education

SPEAKERS: Dr. E. Gordon Gee
President, West Virginia University

Dr. Lawrence Reddick
Distinguished Scholar in Residence, Dillard University

Dr. William J. L. Wallace
President Emeritus, West Virginia State College

EDUCATION IN THE POST BROWN ERA

Thursday, April 12, 1984
7:30 p.m.
Ferrell Auditorium

SPEAKER: Dr. James S. Coleman
Professor of Sociology, University of Chicago

TOPIC: Education in the Post Brown Era

SPEAKER: Dr. Eleanor Smith
Professor of Afro-American Studies, University of Cincinnati

TOPIC: Before and After Brown: Educational Context of Change

MODERATOR: Dr. Betty Harris James
Professor of Education, West Virginia State College

HISTORICAL ASPECTS OF THE BROWN DECISION

Friday, April 13, 1984
10:00 a.m.
Ferrell Auditorium

SPEAKER: Dr. Charles V. Willie
Professor of Education, Harvard University

TOPIC: The Historical Aspects of the Brown Decision

SPEAKER: Dr. James Kelly
Dean, School of Education, University of Pittsburgh

TOPIC: From Here—Where?

MODERATOR: Dr. Ancella R. Bickley
Vice President for Academic Affairs, West Virginia State College

Biographies of the Speakers

Judge Robert Lee Carter has been United States District Court Judge in New York City since 1972. He graduated from Lincoln University in Pennsylvania, received the L.L.B. from Howard University and the L.L.M. from Columbia University. He was a Rosenwald Fellow, 1940-41 and in 1968-69, Columbia University Urban Fellow. He has been a member of the New York City Mayor's Judiciary Committee, The National Committee Against Discrimination in Housing, and a member of the New York State Special Committee on Attica. He has also served as executive Vice-President of the Medgar Evers Fund. He was the American delegate to the United Nations Third World Conference on Crime and Treatment of Offenders in Stockholm in 1965. From 1960 to 1970, he was Adjunct Professor at the New York University Law School. He was Assistant Special Counsel to the NAACP in 1945-46, and General Counsel from 1956-68. While on the NAACP Counsel staff, he was one of the persons who argued in behalf of the Brown v. the Board of Education case.

William E. Chilton, III is publisher of *The Charleston Gazette* and is president of the Daily Gazette Company. He graduated from Yale University in 1950. Colby College and West Virginia State College both have awarded him honorary doctorate degrees. He was a member of the West Virginia House of Delegates, 1952-60, was the first visiting Professor of Journalism at West Virginia University in 1969, and in 1971-72 was a weekly guest commentator on WCHS-TV. He was a member of the Kanawha County Library Board, 1957-71 and the Kanawha County Parks and Recreation Commission, 1967-70. In 1964, he was a member of the National Democratic platform Committee. He received the prestigious Elijah Parrish Lovejoy award in 1982.

Dr. Kenneth Clark, an educator and psychologist, was born in the Panama Canal Zone. He earned the A.B. degree from Howard University and M.S. and Ph.D. degrees from Columbia University. He was one of the persons to present evidence to the United States Supreme Court in the Brown v. the Board of Education hearing. He has been honored three times by the NAACP as the recipient of the Spingarn Award. He has also received the Kurt Lewin Award, the Sidney Hillman Book Award, and is a Fellow of the American Psychological Association. A member of Phi Beta Kappa, he was the Distinguished University Professor at Columbia from 1970-75. He has been Visiting Professor at the University of California, Berkeley and at Harvard University. He is the author of: *Desegration: An Appraisal of the Evidence of Prejudice and Your Child; Dark Ghetto; A Possible Reality; The Pathos of Power*, and Co-Author of: *A Relevant War Against Poverty; How Relevant is Education in America Today?*, and *The Negro American*. At present, he is President and Chairman of the Board of Clark, Phipps, Clark and Harris, Incorporated, New York City.

Dr. James S. Coleman is a professor of sociology at the University of Chicago. He received his B.S. degree in chemical engineering from Purdue University and his Ph.D. degree in sociology from Columbia University. He is the author of eleven books, and he has co-authored an additional five titles. He is most well known for his 1957 study of high school students and a 1966 report commissioned by the United States Office of Education. Officially titled *Equality of Educational Opportunity*, the Coleman report provided evidence that ghetto students perform better educationally when integrated with middle class students than when educational facilities are improved.

Dr. Coleman has received a John Dewey Annual Award and also holds awards from the American Academy of Arts and Sciences and the National Academy of Education. He is a member of the American Sociological Association, National Academy of Education, the American Academy of Arts and Sciences, the National Academy of Sciences, and the American Philosophical Association.

Dexter D. Eure, Sr., a 1946 graduate of West Virginia State College, is Director of Community Relations and Assistant Promotion Manager of *The Boston Globe*. He has been on the staff of *The Globe* since 1963 and active in community relations in Boston for more than thirty years. He holds membership in the following organizations: The Boston Urban Coalition Communication Council, Hale Reservation Westwood, Massachusetts, the Public Affairs Council of the Greater Boston Chamber of Commerce, National Center of Afro-American Artists, and the Advisory Committee of *Crisis* Magazine. He chairs the Appeal and Zoning Board for the town of Sharon and is one of the six directors of The Boston Globe Foundation. In 1968, he received the award for outstanding endeavor from the Boston branch of the NAACP. He also received the Morton M. Goldfine Memorial Award, Freedom House, Incorporated in 1969. The Mt. Zion Lodge F. and A. M. presented him the Boston Community Award in 1971, and in 1974, he was the recipient of the Loncoln University National Unity Award in the media category.

Dr. E. Gordon Gee is the 19th president of West Virginia University. He earned his undergraduate degree from the University of Utah in history and English. He enrolled in a joint degree program which was offered by Columbia University and received doctorates in jurisprudence and education. He was a senior staff assistant to United States Supreme Court Justice Warren Burger. Immediately prior to accepting the position, Dean of the School of Law at West Virginia University, he was Professor and Associate Dean of the Brigham Young University Law School.

Attorney Jack Greenberg received his undergraduate and law education at Columbia University. He was admitted to the New York bar in 1949 and in the same year, became assistant counsel with the NAACP Legal Defense Fund. Among the subjects of cases which he has argued are: school segregation, sit-ins, employment discrimination, poverty, and capital punishment. He has been an Adjunct Professor at Columbia University Law School since 1970. He has been Visiting Professor/Lecturer at Yale University and City University of New York. He is on the Board of Directors of the New York City Legal Aid Society, the International League for Human Rights, the Mexican American Legal Defense Fund and the Earl Warren Lawyer Training Program. He was co-recipient of the Grenville Clark prize, was a Fellow at the University of Pennsylvania Law School and is a Fellow of the American College of Trial Lawyers. He has co-authored: *Citizens Guide to Desegregation; Race Relations and American Law; Judicial Process and Social Change* and a contributing author to: *Race, Sex, and Religious Discrimination in International Law*. He is Director—Counsel of the (NAACP) Legal Defense Fund.

Judge A. Leon Higginbotham, Jr. is an alumnus of Antioch College, and he received his L.L.B. from Yale School of Law. Prior to being named United States District Court Judge, he was a member of the Federal Trade Commission. He has been Adjunct Visiting Professor at the University of Pennsylvania Graduate School, the University of Pennsylvania Law School and the University of Hawaii. He has received 16 honorary degrees and has been the recipient of numerous other honors. The United States Chamber of Commerce named him one of the ten outstanding young men in America in 1964. He received the National Human Relations Award in 1968 from the National Conference of Christians and Jews. In 1969, he received the William C. Menninger Memorial Medallion, the Samuel S. Fels Award, and the Russwurm Award of the National Newspaper Publishers Association. He received the Citation of Merit Award from the Yale Law School in 1975, and in 1976, he received the Martin Luther King Award for Outstanding Service in Civil Rights. He has been guest lecturer at several law schools and holds membership on numerous boards and commissions. He is the author of: *In The Matter of Color; Race and the Legal Process;* and *The Colonial Period*.

Dr. James Kelly is Dean of the School of Education at the University of Pittsburgh. Dean Kelly received the A.B. from Eastern Nazarene College in Massachusetts and the Bachelor of Divinity degree from Howard University. He was Dean of Men and Professor of Philosophy at West Virginia State College from 1948 to 1966. He left the college to accept the position, Associate Director, of a million dollar program to train teachers of the disadvantaged.

While at West Virginia State College, he earned the Master of Arts degree in Education, Anthropology and Counseling from Marshall University. He received the Ph.D. in Higher Education from the University of Pittsburgh and was named Dean in 1973. In 1981, he was named a Fellow of Preceptors, London, England, and in 1982 was named by the United States Department of Education to the United States Polish Education Scholars Exchange in a program sponsored by the Department of State. He spent time in Poland, lecturing, advising and consulting in the exchange program.

Dr. L. D. Reddick, is the Distinguished Scholar in Residence at Dillard University in New Orleans. Dr. Reddick graduated from Fisk University, magna cum laude. He earned the M.A. and the Ph.D. at the University of Chicago. He has been curator of the Schomburg Collection of Negro Literature and Chief Librarian at Atlanta University. He has taught and been guest lecturer at several institutions including Johns Hopkins University and Temple University. He has authored many books, among them are: *Our Cause Speeds On; Crusader Without Violence (biography of Martin Luther King, Jr.); Our Colleges and Industrialization of the South, The Negro in the North During Wartime; and Race Relations on the Pacific West Coast*. Between 1968 and 1970, he visited Southern Europe, West Africa, the West Indies, and took a six week tour of India with Martin Luther King, Jr. He was with Dr. King in Oslo, Norway when he (King) received the Nobel Peace Prize. He has also been coordinator of national policies and programs for *Opportunities Industrial Centers*. Dr. Reddick is presently writing a book on the effects of integration on selected colleges.

Dr. Eleanor Smith studied at Ohio State University and received the doctoral degree from Union Graduate School in Black Studies with a major in history. She has given lectures and consultations in history and Black Studies throughout Ohio and neighboring states. She is currently Associate Professor of Afro-American Studies at the University of Cincinnati.

Dr. William J. L. Wallace is President Emeritus of West Virginia State College. A chemist and educator, Dr. Wallace was graduated from the University of Pittsburgh with a B.S. degree, Columbia University with an A.M. and Cornell University with the Ph.D. Additionally, Dr. Wallace is an ordained minister and is Presiding Elder of the A.M.E. Zion Church in Charleston. He has served on numerous boards, commissions and committees including the West Virginia Advisory Committee to the United States Commission on Civil Rights from 1960 to 1974. He received a citation for Outstanding Service from the 4-H division of the United States Department of Agriculture, the meritorious service citation from the President's Committee on Employment of the Physically Handicapped, the Outstanding Civilian Service Medal from the United States Department of the Army and the Distinguished West Virginian Award was presented to him in 1979. He was President of the College from 1953 to 1973. He received numerous accolades for the manner in which the institution was integrated.

Dr. Charles Vert Willie is Professor of Education and Urban Studies at Harvard University. Prior to accepting his present position, he was Vice President of Syracuse University. A native of Dallas, Texas, Dr. Willie graduated from Morehouse College, Atlanta University and Syracuse University. He has been actively involved in a number of national human relations bodies. A sociologist, he has been a Fellow of the American Sociological Association, has held membership on the President's Commission on Mental Health, the Board of Directors of the Social Science Research Council, the Sociological Research Association, the Advisory Board of the Maurice Falk Medical Fund and past vice-president of the General Convention of the Episcopal Church in the U.S.A. In 1975, he was the court appointed master in the Boston School Desegregation case. He has received honorary degrees from the General Seminary, New York City, Berkeley Divinity School, Yale University, and Harvard University. He received the distinguished alumnus award from Maxwell School, Syracuse University in 1974. Dr. Willie is also a member of Phi Beta Kappa.